

HOUSE BILL No. 1778

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-8-1-5; IC 4-30; IC 4-32-9-23; IC 4-33-5-1; IC 5-8-1-8; IC 9-13-2-38; IC 9-28-1-3; IC 9-30; IC 12-23-7-2; IC 14-22-41-4; IC 15-5-1.1-23; IC 23-1-37-8; IC 23-2; IC 23-17-16-8; IC 25-2.5-2-6; IC 27-1; IC 27-8-19.8-19; IC 27-10-3-8; IC 27-11-3-3; IC 27-14-2-5; IC 27-15-3-2; IC 28-13-13-8; IC 31-30-1-4; IC 31-37; IC 33-2.1-6-4; IC 33-5-40-50; IC 33-9-11-3; IC 33-10.5-6-4; IC 34-28; IC 34-39-3-1; IC 35-34-1-10; IC 35-35; IC 35-36-8-3; IC 35-38-1-1; IC 35-41; IC 35-48-4-12; IC 35-50-2; IC 36-1-9.5-48.

Synopsis: Pleas of no contest. Extends the authority to enter a plea of no contest to juvenile, criminal, nonmoving traffic violations, and other violations punishable as an infraction. Replaces references to "nolo contendere" with the phrase "no contest". Includes a reference to the plea of guilty but mentally ill at the time of the crime in all statutory lists of the available pleas in Indiana. Provides that a traffic violation form that includes a reference to the phrase "nolo contendere" or fails to contain a reference to a plea or finding of "guilty but mentally ill at the time of the crime" may be used after June 30, 2001, to the same extent as if the form referred to the phrase "no contest" or contained the phrase "guilty but mentally ill at the time of the crime". Makes related changes.

Effective: July 1, 2001.

Kuzman

January 17, 2001, read first time and referred to Committee on Courts and Criminal Code.



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Introduced

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1778

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 3-8-1-5, AS AMENDED BY P.L.176-1999,
2 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2001]: Sec. 5. (a) This section does not apply to a candidate
4 for federal office.
5 (b) A person is disqualified from holding or being a candidate for
6 an elected office if the person:
7 (1) gave or offered a bribe, threat, or reward to procure the
8 person's election, as provided in Article 2, Section 6 of the
9 Constitution of the State of Indiana;
10 (2) does not comply with IC 5-8-3 because of a conviction for a
11 violation of the federal laws listed in that statute;
12 (3) has:
13 (A) entered a plea of guilty, **no contest**, or ~~nolo contendere~~
14 **guilty but mentally ill at the time of the crime** to; or
15 (B) been convicted of;
16 a felony (as defined in IC 35-50-2-1);
17 (4) has been removed from the office the candidate seeks under

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Article 7, Section 11 or Article 7, Section 13 of the Constitution of the State of Indiana;

(5) is a member of the United States armed forces on active duty and prohibited by the United States Department of Defense from being a candidate; or

(6) is subject to:

(A) 5 U.S.C. 1502 (the Little Hatch Act); or

(B) 5 U.S.C. 7321-7326 (the Hatch Act);

and would violate either federal statute by becoming or remaining the candidate of a political party for nomination or election to an elected office or a political party office.

SECTION 2. IC 4-30-3-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 13. The commission may employ division directors and other staff necessary to carry out this article. However, the following restrictions apply to the commission and the director's authority to employ individuals and to the duties of the individuals employed by the commission:

(1) An individual may not be employed by the commission if the individual has been convicted of or entered a plea of guilty, **no contest, or not a contender guilty but mentally ill at the time of a crime** to a felony committed in the preceding ten (10) years, regardless of adjudication, unless the commission determines that:

(A) the individual has been pardoned or the individual's civil rights have been restored; or

(B) subsequent to the individual's conviction or entry of a plea the individual engaged in the kind of law abiding behavior and good citizenship that would reflect well upon the integrity of the lottery.

(2) The director, a member, or an employee of the commission having decision making authority may not participate in a decision involving a vendor or retailer with whom the director, member, or employee has a financial interest. An employee may not participate in a decision involving a vendor or retailer with whom the employee has discussed employment opportunities without the approval of the director or, if the individual is the director or a member of the commission, without the approval of the governor. An employee of the commission shall notify the director of any employment opportunities discussed or, if the individual is the director or a member of the commission, the director or member shall notify the governor. A violation of this subdivision is a Class A infraction.



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(3) The director, a member, or an employee of the commission who terminates employment with the commission may not represent a vendor or retailer before the commission regarding a specific matter that the director, member or employee was involved in while serving as a director or member of or while employed by the commission for one (1) year following the date the director or member left the commission or the date of cessation of employment with the commission. A violation of this subdivision is a Class A infraction.

SECTION 3. IC 4-30-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. A contract for a major procurement with a vendor may not be entered into if the vendor has been convicted of or entered a plea of guilty, **no contest**, or ~~noto contendere~~ **guilty but mentally ill at the time of the crime** to a felony committed in the preceding ten (10) years, regardless of adjudication, unless the commission determines that:

- (1) the vendor has been pardoned or the vendor's civil rights have been restored;
- (2) subsequent to the conviction or entry of the plea the vendor has engaged in the kind of law abiding commerce and good citizenship that would reflect well upon the integrity of the lottery; or
- (3) if the vendor is a firm, an association, a partnership, a trust, a corporation, a limited liability company, or other entity, the vendor has terminated its relationship with the individual whose actions directly contributed to the vendor's conviction or entry of the plea.

SECTION 4. IC 4-30-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. The commission may not contract with a person as a retailer that:

- (1) is less than eighteen (18) years of age;
- (2) is engaged exclusively in the business of selling lottery tickets, although this does not preclude the commission from selling lottery tickets;
- (3) is on the most recent tax warrant list provided to the commission by the department of state revenue;
- (4) has been convicted of or entered a plea of guilty, **no contest**, or ~~noto contendere~~ **guilty but mentally ill at the time of the crime** to a felony committed in the preceding ten (10) years, regardless of adjudication, unless the commission determines that:

- (A) the person has been pardoned or the person's civil rights



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have been restored;

(B) subsequent to the conviction or entry of the plea the person has engaged in the kind of law abiding commerce and good citizenship that would reflect well upon the integrity of the lottery; or

(C) if the person is a firm, an association, a partnership, a trust, a corporation, a limited liability company, or other entity, the person has terminated its relationship with the individual whose actions directly contributed to the person's conviction or entry of the plea; or

(5) is:

(A) a department, an agency, a commission, a division, an authority, a board, a bureau, a hospital, or an office of the state, including a state institution of postsecondary education;

(B) an entity that performs an essential governmental function;

(C) part of the judicial department of government;

(D) part of the legislative department of government; or

(E) a political subdivision of the state, including an agency, an authority, a board, a bureau, a commission, a committee, a council, a department, a division, an institution, an office, an officer, or other similar body of a political subdivision.

SECTION 5. IC 4-32-9-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 23. An operator or a worker may not be a person who has been convicted of or entered a plea of ~~not to contend~~ **guilty, no contest, or guilty but mentally ill at the time of the crime** to a felony committed in the preceding ten (10) years, regardless of the adjudication, unless the department determines that:

(1) the person has been pardoned or the person's civil rights have been restored; or

(2) subsequent to the conviction or entry of the plea the person has engaged in the kind of good citizenship that would reflect well upon the integrity of the qualified organization and the department.

SECTION 6. IC 4-33-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. An applicant for a license under this article must provide the following information to the commission:

(1) The name, business address, and business telephone number of the applicant.

(2) An identification of the applicant.

(3) The following information for an applicant that is not an individual:

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- 1 (A) The state of incorporation or registration.
 2 (B) The names of all corporate officers.
 3 (C) The identity of the following:
 4 (i) Any person in which the applicant has an equity interest
 5 of at least one percent (1%) of all shares. The identification
 6 must include the state of incorporation or registration if
 7 applicable. However, an applicant that has a pending
 8 registration statement filed with the Securities and Exchange
 9 Commission is not required to provide information under
 10 this item.
 11 (ii) The shareholders or participants of the applicant. An
 12 applicant that has a pending registration statement filed with
 13 the Securities and Exchange Commission is required to
 14 provide only the names of persons holding an interest of
 15 more than one percent (1%) of all shares.
 16 (4) An identification of any business, including the state of
 17 incorporation or registration if applicable, in which an applicant
 18 or the spouse or children of an applicant has an equity interest of
 19 more than one percent (1%) of all shares.
 20 (5) If the applicant has been indicted, been convicted, pleaded
 21 guilty, **no contest**, or ~~not a contender~~, **guilty but mentally ill at**
 22 **the time of the crime**, or forfeited bail concerning a criminal
 23 offense other than a traffic violation under the laws of any
 24 jurisdiction. The applicant must include the following information
 25 under this subdivision:
 26 (A) The name and location of the following:
 27 (i) The court.
 28 (ii) The arresting agency.
 29 (iii) The prosecuting agency.
 30 (B) The case number.
 31 (C) The date and type of offense.
 32 (D) The disposition of the case.
 33 (E) The location and length of incarceration.
 34 (6) If the applicant has had a license or certificate issued by a
 35 licensing authority in Indiana or any other jurisdiction denied,
 36 restricted, suspended, revoked, or not renewed. An applicant must
 37 provide the following information under this subdivision:
 38 (A) A statement describing the facts and circumstances
 39 concerning the denial, restriction, suspension, revocation, or
 40 nonrenewal.
 41 (B) The date each action described in clause (A) was taken.
 42 (C) The reason each action described in clause (A) was taken.

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(7) If the applicant has:

(A) filed or had filed against the applicant a proceeding in bankruptcy; or

(B) been involved in a formal process to adjust, defer, suspend, or work out the payment of a debt; including the date of filing, the name and location of the court, and the case and number of the disposition.

(8) If the applicant has filed or been served with a complaint or notice filed with a public body concerning:

(A) a delinquency in the payment of; or

(B) a dispute over a filing concerning the payment of; a tax required under federal, state, or local law, including the amount, type of tax, the taxing agency, and times involved.

(9) A statement listing the names and titles of public officials or officers of units of government and relatives of the public officials or officers who directly or indirectly:

(A) have a financial interest in;

(B) have a beneficial interest in;

(C) are the creditors of;

(D) hold a debt instrument issued by; or

(E) have an interest in a contractual or service relationship with;

an applicant.

(10) If an applicant for an owner's or supplier's license has directly or indirectly made a political contribution, loan, donation, or other payment to a candidate or an office holder in Indiana not more than five (5) years before the date the applicant filed the application. An applicant must provide information concerning the amount and method of a payment described in this subdivision.

(11) The name and business telephone number of the attorney who will represent the applicant in matters before the commission.

(12) A description of a proposed or an approved riverboat gaming operation, including the following information:

(A) The type of boat.

(B) The home dock location.

(C) The expected economic benefit to local communities.

(D) The anticipated or actual number of employees.

(E) Any statements from the applicant concerning compliance with federal and state affirmative action guidelines.

(F) Anticipated or actual admissions.

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(G) Anticipated or actual adjusted gross gaming receipts.

(13) A description of the product or service to be supplied by the applicant if the applicant has applied for a supplier's license.

(14) The following information from each licensee involved in the ownership or management of gambling operations:

(A) An annual balance sheet.

(B) An annual income statement.

(C) A list of the stockholders or other persons having at least a one percent (1%) beneficial interest in the gambling activities of the person who has been issued the owner's license.

(D) Any other information the commission considers necessary for the effective administration of this article.

SECTION 7. IC 5-8-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. If the objection to the sufficiency of the articles of impeachment is not sustained by a majority of the members of the senate who heard the argument, the defendant must be ordered forthwith to answer the articles of impeachment. If he then pleads guilty, **no contest, or guilty but mentally ill at the time of the crime**, the senate must render judgment of conviction against him. If he plead not guilty, or refuses to plead, the senate must, at such time as it may appoint, proceed to try the impeachment.

SECTION 8. IC 9-13-2-38 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 38. "Conviction" includes the following:

(1) A conviction or judgment upon a plea of guilty, **no contest or its equivalent, or ~~nolo contendere~~: guilty but mentally ill at the time of the crime.**

(2) A determination of guilt by a jury or a court, even if:

(A) no sentence is imposed; or

(B) a sentence is suspended.

(3) A forfeiture of bail, bond, or collateral deposited to secure the defendant's appearance for trial, unless the forfeiture is vacated.

(4) A payment of money as a penalty or as costs in accordance with an agreement between a moving traffic violator and a traffic violations bureau.

SECTION 9. IC 9-28-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. The driver license compact is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

DRIVER LICENSE COMPACT

ARTICLE 1



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Findings and Declaration of Policy

(a) The party states find that:

(1) The safety of their streets and highways is materially affected by the degree of compliance with state laws and local ordinances relating to the operation of motor vehicles.

(2) Violation of such a law or ordinance is evidence that the violator engages in conduct which is likely to endanger the safety of persons and property.

(3) The continuance in force of a license to drive is predicated upon compliance with laws and ordinances relating to the operation of motor vehicles, in whichever jurisdiction the vehicle is operated.

(b) It is the policy of each of the party states to:

(1) Promote compliance with the laws, ordinances, and administrative rules and regulations relating to the operation of motor vehicles by their operators in each of the jurisdictions where such operators drive motor vehicles.

(2) Make the reciprocal recognition of licenses to drive and eligibility therefor more just and equitable by considering the overall compliance with motor vehicle laws, ordinances, and administrative rules and regulations as a condition precedent to the continuance or issuance of any license by reason of which the licensee is authorized or permitted to operate a motor vehicle in any of the party states.

ARTICLE 2

Definitions

As used in this compact:

(a) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(b) "Home state" means the state which has issued and has the power to suspend or revoke the use of the license or permit to operate a motor vehicle.

(c) "Conviction" means a conviction of any offense related to the use or operation of a motor vehicle which is prohibited by state law, municipal ordinance, or administrative rule or regulation, or a forfeiture of bail, bond, or other security deposited to secure appearance by a person charged with having committed any such offense, and which conviction or forfeiture is required to be reported to the licensing authority.

ARTICLE 3

Reports of Conviction

The licensing authority of a party state shall report each conviction



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of a person from another party state occurring within its jurisdiction to the licensing authority of the home state of the licensee. Such report shall clearly identify the person convicted; describe the violation specifying the section of the statute, code, or ordinance violated; identify the court in which action was taken; indicate whether a plea of guilty, **no contest, guilty but mentally ill at the time of the crime**, or not guilty was entered, or the conviction was a result of the forfeiture of bail, bond, or other security; and shall include any special findings made in connection therewith.

ARTICLE 4

Effect of Conviction

(a) The licensing authority in the home state, for the purposes of suspension, revocation, or limitation of the license to operate a motor vehicle, shall give the same effect to the conduct reported, pursuant to Article 3 of this compact, as it would if such conduct had occurred in the home state, in the case of convictions for:

(1) Manslaughter or negligent homicide resulting from the operation of a motor vehicle.

(2) Driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug, or under the influence of any other drug to a degree which renders the driver incapable of safely driving a motor vehicle.

(3) Any felony in the commission of which a motor vehicle is used.

(4) Failure to stop and render aid in the event of a motor vehicle accident resulting in the death or personal injury of another.

(b) As to other convictions, reported pursuant to Article 3, the licensing authority in the home state shall give such effect to the conduct as is provided by the laws of the home state.

(c) If the laws of a party state do not provide for offenses or violations denominated or described in precisely the words employed in subdivision (a) of this article, such party state shall construe the denominations and descriptions appearing in subdivision (a) hereof as being applicable to and identifying those offenses or violations of a substantially similar nature, and the laws of such party state shall contain such provisions as may be necessary to ensure that full force and effect is given to this article.

ARTICLE 5

Applications for New Licenses

Upon application for a license to drive, the licensing authority in a party state shall ascertain whether the applicant has ever held, or is the holder of a license to drive issued by any other party state. The

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1 licensing authority in the state where application is made shall not issue
2 a license to drive to the applicant if:

3 (1) The applicant has held such a license, but the same has been
4 suspended by reason, in whole or in part, of a violation and if
5 such suspension period has not terminated.

6 (2) The applicant has held such a license, but the same has been
7 revoked by reason, in whole or in part, of a violation and if such
8 revocation has not terminated, except that after the expiration of
9 one (1) year from the date the license was revoked, such person
10 may make application for a new license if permitted by law. The
11 licensing authority may refuse to issue a license to any such
12 applicant if, after investigation, the licensing authority determines
13 that it will not be safe to grant to such person the privilege of
14 driving a motor vehicle on the highways.

15 (3) The applicant is the holder of a license to drive issued by
16 another party state and currently in force unless the applicant
17 surrenders such license.

18 ARTICLE 6

19 Applicability of Other Laws

20 Except as expressly required by provisions of this compact, nothing
21 contained herein shall be construed to affect the right of any party state
22 to apply any of its other laws relating to licenses to drive to any person
23 or circumstance, nor to invalidate or prevent any driver license
24 agreement or other cooperative arrangement between a party state and
25 a nonparty state.

26 ARTICLE 7

27 Compact Administrator and Interchange of Information

28 (a) The head of the licensing authority of each party shall be the
29 administrator of this compact for his state. The administrators, acting
30 jointly, shall have the power to formulate all necessary and proper
31 procedures for the exchange of information under this compact.

32 (b) The administrator of each party state shall furnish to the
33 administrator of each other party state any information or documents
34 reasonably necessary to facilitate the administration of this compact.

35 ARTICLE 8

36 Entry into Force and Withdrawal

37 (a) This compact shall enter into force and become effective as to
38 any state when it has enacted the same into law.

39 (b) Any party state may withdraw from this compact by enacting a
40 statute repealing the same, but no such withdrawal shall take effect
41 until six (6) months after the executive head of the withdrawing state
42 has given notice of the withdrawal to the executive heads of all other



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1 party states. No withdrawal shall affect the validity or applicability by
 2 the licensing authorities of states remaining party to the compact of any
 3 report of conviction occurring prior to the withdrawal.

4 ARTICLE 9

5 Construction and Severability

6 This compact shall be liberally construed so as to effectuate the
 7 purposes thereof. The provisions of this compact shall be severable and
 8 if any phrase, clause, sentence, or provision of this compact is declared
 9 to be contrary to the Constitution of any party state or of the United
 10 States or the applicability thereof to any government, agency, person,
 11 or circumstance is held invalid, the validity of the remainder of this
 12 compact and the applicability thereof to any government, agency,
 13 person, or circumstance shall not be affected thereby. If this compact
 14 shall be held contrary to the constitution of any state party thereto, the
 15 compact shall remain in full force and effect as to the remaining states
 16 and in full force and effect as to the state affected as to all severable
 17 matters.

18 SECTION 10. IC 9-30-2-5 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) If a person who
 20 is an Indiana resident:

21 (1) is arrested for a misdemeanor regulating the use and operation
 22 of motor vehicles, other than the misdemeanor of operating a
 23 vehicle while intoxicated; and

24 (2) is not immediately taken to court as provided in section 4 of
 25 this chapter;

26 the person shall be released from custody by the arresting officer upon
 27 signing a written promise to appear in the proper court at a time and
 28 date indicated on the promise. The resident shall be given a copy of the
 29 promise.

30 (b) Except as provided in IC 9-28-1 and IC 9-28-2, if a person who
 31 is not an Indiana resident is arrested for a violation of a traffic
 32 ordinance or a statute punishable as an infraction or a misdemeanor
 33 that regulates the use and operation of a motor vehicle and is not
 34 immediately taken to court as provided in section 4 of this chapter, the
 35 person shall be released upon the deposit of a security. The security
 36 shall be:

37 (1) the amount of the fine and costs for the violation in the form
 38 of cash, a money order, or a traveler's check made payable to the
 39 clerk of the court; or

40 (2) a valid motor club card of a motor club that, by written plan
 41 approved by the secretary of state as provided in section 8 of this
 42 chapter, guarantees the nonresident's deposit in the amount of the

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fine and costs.

The proper court shall provide a list of security deposits, which must be equal to the fine and costs for the violation, and a security deposit agreement that acts as a receipt for the deposit. A nonresident who does not choose to deposit a security shall be taken to the proper court.

(c) The agreement for the security deposit and the written promise or notice to appear in court must contain the following:

(1) A citation of the violation.

(2) The name and address of the person accused of committing the violation.

(3) The number of the person's license to operate a motor vehicle.

(4) The registration number of the person's vehicle, if any.

(5) The time and place the person must appear in court.

If the violation is a misdemeanor, the time specified for appearance must be at least five (5) days after the arrest unless the arrested person demands an earlier hearing. The place specified for appearance must be in the proper court within the county where the person was arrested or given a notice to appear in the case of an infraction or ordinance. The nonresident shall be properly informed of the consequences of a guilty plea, **plea of no contest, plea of guilty but mentally ill at the time of the crime**, or an agreed judgment. The agreement for the security must also contain a provision in which the nonresident agrees that the court shall take permanent possession of the deposit, and if the nonresident fails to appear in court or is not represented in court, a guilty plea or an offer of judgment shall be entered on the court's record on behalf of the nonresident. Upon proper appearance or representation, the security shall be returned to the nonresident.

(d) A nonresident licensed by a jurisdiction that has entered into an agreement with Indiana under IC 9-28-2 may deposit the nonresident's license to operate a motor vehicle with the law enforcement officer as security for release. A nonresident shall, by the date required on the security deposit agreement, do one (1) of the following:

(1) Appear in court.

(2) Be represented in court.

(3) Deliver to the court by mail or courier the amount of the fine and costs prescribed for the violation.

The license to operate a motor vehicle shall be returned to the nonresident upon payment of the fine and costs and entry of a guilty plea or upon other judgment of the court. Until a judgment has been entered upon the court's records, the nonresident's copy of the security deposit agreement acts as a temporary license to operate a motor vehicle. Upon failure to appear or to be represented, the nonresident's

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license to operate a motor vehicle and a copy of the judgment shall be sent by the court to the bureau, which shall notify the appropriate agency in accordance with IC 9-30-3-8.

(e) A nonresident who requests to deposit a security in the amount of the fine and costs shall be accompanied to the nearest United States mail receptacle and instructed by the law enforcement officer to place:

(1) the amount of the fine and costs; and

(2) one (1) signed copy of the security deposit agreement;

into a stamped, addressed envelope, which the proper court shall supply to the officer for the nonresident. The officer shall observe this transaction and shall observe the nonresident deposit the envelope in the mail receptacle. The nonresident shall then be released and given a copy of the security deposit agreement. If the nonresident does not appear in court or is not represented in court at the time and date specified on the receipt, a guilty plea or judgment against the nonresident shall be entered and the security deposit shall be used to satisfy the amount of the fine and costs prescribed for the violation.

(f) A nonresident motorist may deposit with the law enforcement officer a valid motor club card as a guarantee of security if the motor club or its affiliated clubs have a written plan approved by the secretary of state that guarantees the payment of the security in the amount of the fine and costs if the motorist:

(1) does not appear in court; or

(2) is not represented in court on the date and time specified in the security agreement.

(g) The recipient court may refuse acceptance of a security deposit agreement for a second moving traffic charge within a twelve (12) month period. The court may send notice requiring a personal court appearance on a date specified. Upon failure to appear the court shall take the appropriate action as described in this section.

SECTION 11. IC 9-30-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. (a) In traffic cases, the information and summons shall be in substantially the following form:

In the _____ Court of _____ County

Cause No. _____ Docket No. _____

Page No. _____

State of Indiana

SS: _____ No. _____

County of _____

INFORMATION AND SUMMONS

The undersigned having probable cause to believe and being duly

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1 sworn upon his oath says that:
 2 On the _____ Day of _____, **19 20** at _____ M
 3 Name _____
 4 Last First Middle
 5 Street _____
 6 City _____ State _____ Zip Code _____
 7 Race ___ Sex ___ Age ___ D.O.B. _____ HT ___ WT ___
 8 Oper. Lic. # _____ St. _____ Did Unlawfully
 9 Operate Veh. Color _____ Veh. Yr. _____ Veh. Make _____
 10 Veh. Lic. Yr. _____ Veh. Lic. St. _____ Veh. Lic. # _____
 11 Upon, (Location) _____
 12 _____
 13 A PUBLIC STREET OR HIGHWAY IN _____
 14 COUNTY, INDIANA, AND COMMIT, THE OFFENSE OF:
 15 _____
 16 _____
 17 CONTRARY TO THE FORM OF THE () STATE STATUTE
 18 () LOCAL ORDINANCE IN SUCH CASE MADE AND PROVIDED.
 19 OFFICER'S SIGNATURE _____
 20 I.D. No. _____ Div. Dist. _____
 21 POLICE AGENCY _____
 22 Subscribed And Sworn to Before Me
 23 (Deputy Clerk) _____
 24 This _____ Day of _____, **19 20** _____
 25 COURT APPEARANCE
 26 I PROMISE TO APPEAR IN COURTROOM
 27 _____
 28 ADDRESS: _____
 29 ON _____ THE _____ DAY OF _____, **19 20** _____
 30 AT ___ M. OR BE SUBJECT TO ARREST.
 31 SIGNATURE _____
 32 "YOUR SIGNATURE IS NOT AN ADMISSION OF GUILT"
 33 The information and summons shall consist of four (4) parts:
 34 (1) the original copy, printed on white paper, which shall be the
 35 abstract of court record for the Indiana bureau of motor vehicles;
 36 (2) the court copy, printed on white paper;
 37 (3) the police record, which shall be a copy of the information,
 38 printed on pink paper; and
 39 (4) the summons copy, printed on white stock.
 40 The reverse sides of the information and abstract of court record
 41 shall be substantially as follows, with such additions or deletions as are
 42 necessary to adapt the form to the court involved:

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1 RECEIPT # _____
2 DATE _____
3 COURT ACTION AND OTHER ORDERS
4 BAIL \$ _____
5 REARREST BOND \$ _____ DATE _____
6 1. CONTINUANCE TO ____ 4. CONTINUANCE TO ____
7 2. CONTINUANCE TO ____ 5. CONTINUANCE TO ____
8 3. CONTINUANCE TO ____ 6. CONTINUANCE TO ____
9 Motions Date Ruling Date
10 1. ____ ____ ____ ____
11 2. ____ ____ ____ ____
12 3. ____ ____ ____ ____
13 4. ____ ____ ____ ____
14 PLEA ☐ GUILTY
15 ☐ NOT GUILTY
16 ☐ NO CONTEST
17 ☐ GUILTY BUT MENTALLY ILL AT THE TIME
18 OF THE CRIME
19 FINDING ☐ GUILTY
20 ☐ NOT GUILTY
21 ☐ NO CONTEST
22 ☐ GUILTY BUT MENTALLY ILL AT THE TIME
23 OF THE CRIME
24 THE COURT THEREFORE, ENTERS
25 THE FOLLOWING ORDER
26 FINE \$ _____ AMOUNT SUSP. \$ _____
27 (STATE) \$ _____
28 COSTS
29 (CITY) \$ _____
30 _____ DAYS IN _____ DAYS SUSP.
31 _____
32 ☐ RECOMMENDED LICENSE SUSPENDED FOR _____
33 ☐ PROBATIONARY LICENSE AUTHORIZED FOR ONE YEAR
34 PROBATION
35 _____
36 _____
37 _____
38 _____
39 JUDGE: _____
40 DATE: _____
41 ATTORNEY FOR DEFENDANT _____
42 ADDRESS _____ TELEPHONE _____

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WITNESSES

The notice, the appearance, the plea of ~~either~~ guilty, ~~or~~ not guilty, **no contest, or guilty but mentally ill at the time of the crime**, and the waiver shall be printed on the summons. The trimmed size of the paper and stock on which the form is printed shall be nominally four and one quarter (4 1/4) inches by eight and one quarter (8 1/4) inches.

(b) In civil traffic cases, the complaint and summons shall be in substantially the following form:

In the _____ Court of _____ County
Cause No. _____ Docket No. _____
Page No. _____
State of Indiana

SS: No. _____
County of _____

COMPLAINT AND SUMMONS

The undersigned having probable cause to believe and being duly sworn upon his oath says that:

On the _____ Day of _____, ~~19~~ 20 ____ at ____ M

Name _____
Last First Middle

Street _____
City _____ State _____ Zip Code _____

Race ____ Sex ____ Age ____ D.O.B. _____ HT ____ WT ____

Oper. Lic. # _____ St. _____ Did Unlawfully

Operate Veh. Color _____ Veh. Yr. ____ Veh. Make _____

Veh. Lic. Yr. ____ Veh. Lic. St. ____ Veh. Lic. # _____

Upon, (Location) _____

A PUBLIC STREET OR HIGHWAY IN _____
COUNTY, INDIANA, AND COMMIT, THE OFFENSE OF:

CONTRARY TO THE FORM OF THE () STATE STATUTE
() LOCAL ORDINANCE IN SUCH CASE MADE AND PROVIDED.
OFFICER'S SIGNATURE _____

I.D. No. _____ Div. Dist. _____
POLICE AGENCY _____

Subscribed And Sworn to Before Me
(Deputy Clerk) _____



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1 This _____ Day of _____, ~~19~~ 20 ____
2 COURT APPEARANCE
3 I PROMISE TO APPEAR IN _____
4 COURTROOM _____
5 ADDRESS: _____
6 ON _____ THE _____ DAY OF _____, ~~19~~ 20 ____
7 AT ____ M. OR BE SUBJECT TO ARREST.
8 SIGNATURE _____
9 "YOUR SIGNATURE IS NOT AN ADMISSION OF A VIOLATION"
10 The complaint and summons shall consist of four (4) parts:
11 (1) the original copy, printed on white paper, which shall be the
12 abstract of court record for the Indiana bureau of motor vehicles;
13 (2) the court copy, printed on white paper;
14 (3) the police record, which shall be a copy of the complaint,
15 printed on pink paper; and
16 (4) the summons copy, printed on white stock.
17 The reverse sides of the complaint and abstract of court record
18 shall be substantially as follows, with such additions or deletions as are
19 necessary to adapt the form to the court involved:
20 RECEIPT # _____
21 DATE _____
22 COURT ACTION AND OTHER ORDERS
23 BAIL \$ _____
24 REARREST BOND \$ _____ DATE _____
25 1. CONTINUANCE TO _____ 4. CONTINUANCE TO _____
26 2. CONTINUANCE TO _____ 5. CONTINUANCE TO _____
27 3. CONTINUANCE TO _____ 6. CONTINUANCE TO _____
28 Motions Date Ruling Date
29 1. _____
30 2. _____
31 3. _____
32 4. _____
33 PLEA ☐ ADMIT
34 ☐ DENY
35 ☐ ~~NOLO CONTENDERE~~ NO CONTEST
36 FINDING ☐ JUDGMENT FOR PLAINTIFF
37 ☐ JUDGMENT FOR DEFENDANT
38 THE COURT THEREFORE, ENTERS
39 THE FOLLOWING ORDER
40 FINE \$ _____ AMOUNT SUSP. \$ _____
41 (STATE) \$ _____
42 COSTS

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(CITY) \$ _____

() RECOMMENDED LICENSE SUSPENDED FOR _____
 () PROBATIONARY LICENSE AUTHORIZED FOR ONE YEAR
 PROBATION

JUDGE: _____

DATE: _____

ATTORNEY FOR DEFENDANT _____

ADDRESS _____ TELEPHONE _____

WITNESSES

The notice, appearance, plea of either admission, denial, or ~~note~~
~~contendere~~ **no contest** shall be printed on the summons. The trimmed
 size of the paper and stock on which the form is printed shall be
 nominally four and one quarter (4 1/4) inches by eight and one quarter
 (8 1/4) inches.

(c) The complaint form shall be used in traffic cases, whether the
 charge is made by a law enforcement officer or by any other person.

(d) Each judicial officer or police authority issuing traffic
 complaints and summons:

- (1) is responsible for the disposition of all the traffic complaints
 and summons issued under the officer's or authority's; and
- (2) shall prepare and submit the records and reports relating to the
 traffic complaints in the manner and at the time prescribed by
 both the state examiner of the state board of accounts and the
 bureau.

SECTION 12. IC 9-30-3-11 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11. (a) Before
 accepting a plea of guilty, **no contest, or guilty but mentally ill at the
 time of the crime** to a misdemeanor traffic offense, the court shall
 inform the defendant of the defendant's rights, including the right to:

- (1) engage counsel;
- (2) a reasonable continuance to engage counsel to subpoena
 witnesses;
- (3) have process issued by the court, without expense to the
 defendant, to compel the attendance of witnesses in the
 defendant's behalf;



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1 (4) testify or not to testify in the defendant's own behalf;

2 (5) a trial by jury; and

3 (6) appeal.

4 (b) The court shall inform each defendant charged with a traffic
5 offense other than a nonmoving traffic offense, if the defendant is
6 convicted or judgment is entered against the defendant, that a record of
7 the conviction or judgment will be sent to the bureau or the motor
8 vehicle bureau of the state where the defendant received a license to
9 drive to become a part of the defendant's driving record.

10 (c) The court shall keep a full record of every case in which a person
11 is charged with a traffic offense other than a nonmoving traffic offense.
12 Within ten (10) days after the conviction, judgment, or forfeiture of
13 security deposit of a person, the court shall forward a copy of the
14 judgment or an abstract as prescribed by IC 9-25-6-8. The abstract
15 comprises the original copy of the traffic information and summons or
16 complaint and summons if the conviction, judgment, or forfeiture of
17 security deposit has been entered on that copy. However, instead of the
18 original copy, the court may, subject to the approval of the bureau, send
19 the information in the form of a chemical based, magnetic, or machine
20 readable media. Records of nonmoving traffic offenses are not required
21 to be forwarded to the bureau.

22 (d) One (1) year after the abstract has been forwarded, the court may
23 destroy the remaining court copies of the information and summons or
24 complaint and summons and related pleadings if an order book entry
25 of the copy has been made and the original copy has been sent to the
26 bureau of motor vehicles.

27 (e) Upon the failure of a court officer to comply with subsection (c),
28 the officer is liable on the officer's official bond for a civil penalty of
29 one hundred dollars (\$100) accruing to the state, which may be
30 recovered, together with the costs of the suit, in a civil action brought
31 by the attorney general in the name of the state on relation of the
32 attorney general. Each failure by an officer constitutes a separate cause
33 of action.

34 SECTION 13. IC 9-30-4-6 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. (a) Whenever the
36 bureau suspends or revokes the current driver's license upon receiving
37 a record of the conviction of a person for any offense under the motor
38 vehicle laws not enumerated under subsection (b), the bureau may also
39 suspend any of the certificates of registration and license plates issued
40 for any motor vehicle registered in the name of the person so convicted.
41 However, the bureau may not suspend the evidence of registration,
42 unless otherwise required by law, if the person has given or gives and

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maintains during the three (3) years following the date of suspension or revocation proof of financial responsibility in the future in the manner specified in this section.

(b) The bureau shall suspend or revoke without notice or hearing the current driver's license and all certificates of registration and license plates issued or registered in the name of a person who is convicted of any of the following:

(1) Manslaughter or reckless homicide resulting from the operation of a motor vehicle.

(2) Perjury or knowingly making a false affidavit to the department under this chapter or any other law requiring the registration of motor vehicles or regulating motor vehicle operation upon the highways.

(3) A felony under Indiana motor vehicle laws or felony in the commission of which a motor vehicle is used.

(4) Three (3) charges of criminal recklessness involving the use of a motor vehicle within the preceding twelve (12) months.

(5) Failure to stop and give information or assistance or failure to stop and disclose the person's identity at the scene of an accident that has resulted in death, personal injury, or property damage in excess of two hundred dollars (\$200).

(6) Possession, distribution, manufacture, cultivation, transfer, use, or sale of a controlled substance or counterfeit substance, or attempting or conspiring to possess, distribute, manufacture, cultivate, transfer, use, or sell a controlled substance or counterfeit substance.

(c) The license of a person shall also be suspended upon conviction in another jurisdiction for any offense described in subsections (b)(1), (b)(2), (b)(3), (b)(4), and (b)(5), except if property damage is less than two hundred dollars (\$200), the bureau may determine whether the driver's license and certificates of registration and license plates shall be suspended or revoked. The license of a person shall also be suspended upon conviction in another jurisdiction for any offense described in subsection (b)(6).

(d) A suspension or revocation remains in effect and a new or renewal license may not be issued to the person and a motor vehicle may not be registered in the name of the person as follows:

(1) Except as provided in subdivisions (2) and (3), for six (6) months from the date of conviction or on the date on which the person is otherwise eligible for a license, whichever is later. Except as provided in IC 35-48-4-15, this includes a person convicted of a crime for which the person's license is suspended

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or revoked under subsection (b)(6).

(2) Upon conviction of an offense described in subsection (b)(1), for a fixed period of not less than two (2) years and not more than five (5) years, to be fixed by the bureau based upon recommendation of the court entering a conviction. A new or reinstated license may not be issued to the person unless that person, within the three (3) years following the expiration of the suspension or revocation, gives and maintains in force at all times during the effective period of a new or reinstated license proof of financial responsibility in the future in the manner specified in this chapter. However, the liability of the insurance carrier under a motor vehicle liability policy that is furnished for proof of financial responsibility in the future as set out in this chapter becomes absolute whenever loss or damage covered by the policy occurs, and the satisfaction by the insured of a final judgment for loss or damage is not a condition precedent to the right or obligation of the carrier to make payment on account of loss or damage, but the insurance carrier has the right to settle a claim covered by the policy. If the settlement is made in good faith, the amount shall be deductive from the limits of liability specified in the policy. A policy may not be canceled or annulled with respect to a loss or damage by an agreement between the carrier and the insured after the insured has become responsible for the loss or damage, and a cancellation or annulment is void. The policy may provide that the insured or any other person covered by the policy shall reimburse the insurance carrier for payment made on account of any loss or damage claim or suit involving a breach of the terms, provisions, or conditions of the policy. If the policy provides for limits in excess of the limits specified in this chapter, the insurance carrier may plead against any plaintiff, with respect to the amount of the excess limits of liability, any defenses that the carrier may be entitled to plead against the insured. The policy may further provide for prorating of the insurance with other applicable valid and collectible insurance. An action does not lie against the insurance carrier by or on behalf of any claimant under the policy until a final judgment has been obtained after actual trial by or on behalf of any claimant under the policy.

(3) For the period ordered by a court under IC 35-48-4-15.

(e) The bureau may take action as required in this section upon receiving satisfactory evidence of a conviction of a person in another state.

(f) For the purpose of this chapter, "conviction" includes any of the

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following:

(1) A conviction upon a plea of guilty, **no contest, or guilty but mentally ill at the time of the crime.**

(2) A determination of guilt by a jury or court, even if:

(A) no sentence is imposed; or

(B) a sentence is suspended.

(3) A forfeiture of bail, bond, or collateral deposited to secure the defendant's appearance for trial, unless the forfeiture is vacated.

(4) A payment of money as a penalty or as costs in accordance with an agreement between a moving traffic violator and a traffic violations bureau.

(g) A suspension or revocation under this section or under IC 9-25-6-8 stands pending appeal of the conviction to a higher court and may be set aside or modified only upon the receipt by the bureau of the certificate of the court reversing or modifying the judgment that the cause has been reversed or modified. However, if the suspension or revocation follows a conviction in a court of no record in Indiana, the suspension or revocation is stayed pending appeal of the conviction to a court of record.

(h) A person aggrieved by an order or act of the bureau under this section or IC 9-25-6-8 may file a petition for a court review.

SECTION 14. IC 12-23-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. In offering an individual an opportunity to request treatment, the court shall advise the individual of the following:

(1) If the individual requests to undergo treatment and is accepted, the individual may be placed under the supervision of the division for a period not to exceed three (3) years.

(2) During treatment the individual may be confined in an institution or, at the discretion of the division, the individual may be released for treatment or supervised aftercare in the community.

(3) If the individual completes treatment, the charge will be dismissed, but if the individual does not complete treatment, prosecution on the charge may be resumed.

(4) A request constitutes a formal waiver of the right to a speedy trial.

(5) To make a request the individual must waive a jury trial and consent to a trial by the court or must enter a guilty plea, **a plea of no contest, or a plea of guilty but mentally ill at the time of the crime**, with the general finding to be entered by the court to be deferred until the time that prosecution may be resumed.



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1 SECTION 15. IC 14-22-41-4, AS ADDED BY P.L.23-1999,
 2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2001]: Sec. 4. ARTICLE II

4 (a) "Citation" means any summons, complaint, summons and
 5 complaint, ticket, penalty assessment, or other official document issued
 6 to a person by a wildlife officer or other law enforcement officer for a
 7 wildlife violation that contains an order requiring the person to
 8 respond.

9 (b) "Collateral" means cash or other security deposited to secure an
 10 appearance for trial in connection with the issuance by a wildlife
 11 officer or other law enforcement officer of a citation for a wildlife
 12 violation.

13 (c) "Compliance", with respect to a citation, means the act of
 14 answering a citation through an appearance in a court or tribunal or
 15 through the payment of fines, costs, and surcharges, if any.

16 (d) "Conviction" means a conviction, including any court
 17 conviction, for any offense related to the preservation, protection,
 18 management, or restoration of wildlife that is prohibited by state
 19 statute, law, regulation, ordinance, or administrative rule. The term
 20 includes the forfeiture of any bail, bond, or other security deposited to
 21 secure appearance by a person charged with having committed any
 22 such offense, the payment of a penalty assessment, a plea of ~~not~~
 23 ~~contendere~~, **no contest**, and the imposition of a deferred or suspended
 24 sentence by the court.

25 (e) "Court" means a court of law, including a magistrate's court and
 26 a justice of the peace court.

27 (f) "Home state" means the state of primary residence of a person.

28 (g) "Issuing state" means the participating state that issues a wildlife
 29 citation to the violator.

30 (h) "License" means any license, permit, or other public document
 31 that conveys to the person to whom it was issued the privilege of
 32 pursuing, possessing, or taking any wildlife regulated by statute, law,
 33 regulation, ordinance, or administrative rule of a participating state.

34 (i) "Licensing authority" means the department or division within
 35 each participating state that is authorized by law to issue or approve
 36 licenses or permits to hunt, fish, trap, or possess wildlife.

37 (j) "Participating state" means any state that enacts legislation to
 38 become a member of the wildlife violator compact.

39 (k) "Personal recognizance" means an agreement made by a person
 40 at the time of issuance of the wildlife citation that the person will
 41 comply with the terms of the citation.

42 (l) "State" means any state, territory or possession of the United

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1 States, the District of Columbia, the Commonwealth of Puerto Rico, the
2 provinces of Canada, and other countries.

3 (m) "Suspension" means any revocation, denial, or withdrawal of
4 any or all license privileges, including the privilege to apply for,
5 purchase, or exercise the benefits conferred by any license.

6 (n) "Terms of the citation" means those conditions and options
7 expressly stated upon the citation.

8 (o) "Wildlife" means all species of animals including mammals,
9 birds, fish, reptiles, amphibians, mollusks, and crustaceans that are
10 defined as "wildlife" and are protected or otherwise regulated by
11 statute, law, regulation, ordinance, or administrative rule in a
12 participating state. Species included in the definition of wildlife vary
13 from state to state and determination of whether a species is wildlife for
14 the purposes of this compact is based on local law.

15 (p) "Wildlife law" means any statute, law, regulation, ordinance, or
16 administrative rule developed and enacted for the management and
17 uses of wildlife resources.

18 (q) "Wildlife officer" means any individual authorized by a
19 participating state to issue a citation for a wildlife violation.

20 (r) "Wildlife violation" means any cited violation of a statute, law,
21 regulation, ordinance, or administrative rule developed and enacted for
22 the management and uses of wildlife resources.

23 (s) Unless the context requires otherwise, the definitions of this
24 section apply throughout the chapter.

25 SECTION 16. IC 15-5-1.1-23, AS AMENDED BY P.L.71-2000,
26 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
27 JULY 1, 2001]: Sec. 23. Upon written complaint sworn to by any
28 individual, the board may, by the concurrence of four (4) members,
29 after a hearing and based upon findings of fact, discipline a registered
30 veterinary technician by revoking or suspending the technician's
31 registration for a time certain, placing the technician on probation, or
32 by any other appropriate means for any of the following reasons:

33 (1) The use of fraud, misrepresentation, or deception in obtaining
34 a registration.

35 (2) Chronic inebriety, or the unlawful use of a controlled
36 substance.

37 (3) The use of advertising or solicitation which is false or
38 misleading or is otherwise deemed unprofessional under rules
39 promulgated by the board.

40 (4) Conviction of or a plea of guilty, **no contest, or guilty but**
41 **mentally ill at the time of the crime** to the charge of a felony or
42 misdemeanor involving moral turpitude.

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(5) Incompetence, gross negligence, or malpractice in performing as a registered veterinary technician.

(6) Cruelty to animals.

(7) Representing the technician as a veterinarian.

(8) Disciplinary action taken against the technician's registration by the board or by the licensing agency of any other state or jurisdiction by reason of the technician's inability to practice safely as a registered veterinary technician, if the reason is valid in the opinion of the board.

SECTION 17. IC 23-1-37-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. (a) A corporation may indemnify an individual made a party to a proceeding because the individual is or was a director against liability incurred in the proceeding if:

(1) the individual's conduct was in good faith; and

(2) the individual reasonably believed:

(A) in the case of conduct in the individual's official capacity with the corporation, that the individual's conduct was in its best interests; and

(B) in all other cases, that the individual's conduct was at least not opposed to its best interests; and

(3) in the case of any criminal proceeding, the individual either:

(A) had reasonable cause to believe the individual's conduct was lawful; or

(B) had no reasonable cause to believe the individual's conduct was unlawful.

(b) A director's conduct with respect to an employee benefit plan for a purpose the director reasonably believed to be in the interests of the participants in and beneficiaries of the plan is conduct that satisfies the requirement of subsection (a)(2)(B).

(c) The termination of a proceeding by judgment, order, settlement, conviction, **plea**, or ~~upon a plea of noto contendere or its equivalent~~ **deferral of conviction or judgment** is not, of itself, determinative that the director did not meet the standard of conduct described in this section.

SECTION 18. IC 23-2-2.5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10. An application for registration shall include:

(a) the name of the franchisor, the name, trade name, and trademark or service mark under which the franchisor is doing or intends to do business, and the name of any affiliate of the franchisor which the franchisor recommends or will recommend to franchisees as a supplier

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of goods or services or in connection with other business transactions of franchisees;

(b) the franchisor's principal business address and the name and address of its agent in Indiana authorized to receive process;

(c) the business form of the franchisor and the jurisdiction under which the franchisor is organized;

(d) the names of the directors or persons performing similar functions and names and addresses of the chief executive officers, and the financial, accounting, franchise sales, and other principal executive officers, if the franchisor is a corporation, association, or other entity, of all general partners, if the franchisor is a partnership, of all members and managers, if any, if the franchisor is a limited liability company, and of the franchisor, if the franchisor is an individual, together with a statement of the business background of each such person for the past five (5) years;

(e) a statement as to whether any person identified in the application:

(1) has during the five (5) year period immediately preceding the date of application been convicted of a felony, pleaded ~~noto~~ **contendere guilty, no contest, or guilty but mentally ill at the time of the crime** to a felony charge, or been held liable in a civil action by final judgment, if such felony or civil action involved fraud, embezzlement, misappropriation of property, or the violation of any state or federal statute involving the offer or sale of securities or franchises, and a description thereof;

(2) is subject to any currently effective order affecting the franchise resulting from a proceeding or pending action brought by any individual or public agency or department, and a copy of that order;

(3) is a defendant in any pending criminal or material civil proceeding, and a copy thereof;

(4) has during the five (5) year period immediately preceding the date of application had entered against him a final judgment in any material civil action, and a description thereof; or

(5) is the franchisor or a principal executive officer or general partner of the franchisor and has during the five (5) year period immediately preceding the date of application reorganized due to insolvency or been adjudicated as a bankrupt during that five (5) year period, and a description thereof;

(f) the length of time the franchisor or any predecessor of the franchisor: (1) has conducted a business of the type to be conducted by the franchisees; (2) has granted franchises for such business; or (3) has

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1 granted franchises in other lines of business;

2 (g) a statement describing the trademarks, service marks, trade
3 names and other commercial symbols to be used by the franchisee,
4 which statement shall include:

5 (1) whether any of such trademarks and service marks are
6 registered with the United States Patent Office or the secretary of
7 state of Indiana;

8 (2) whether any interference, opposition or cancellation
9 proceedings and any material litigation involving any such
10 trademarks, service marks, trade names or commercial symbols
11 are pending; and

12 (3) whether any contracts are in effect which materially limit the
13 rights of the franchisor with respect to any such trademarks,
14 service marks, trade names or commercial symbols; a statement
15 of the franchisor's obligations to protect all rights which the
16 franchisee has to use such trademarks, service marks, trade names
17 and commercial symbols and to protect the franchisee against
18 claims of infringement and unfair competition;

19 (h) a balance sheet of the franchisor, certified by an independent
20 certified public accountant, as of the close of the most recent fiscal year
21 of the franchisor unless it is furnished as of a date within ninety (90)
22 days following the close of the fiscal year of the franchisor, in which
23 case the statement for the preceding fiscal year may be used together
24 with a statement of any material changes in the financial condition of
25 the franchisor since the date of the statement provided. The
26 commissioner may, in his discretion, waive the requirement for
27 certified statements for franchisors who have not previously had such
28 certified audits provided that such franchisors file certified statements
29 for the fiscal year during which their disclosure statements are filed
30 within sixty (60) days following the conclusion of the fiscal year;

31 (i) a description of the business which is the subject of the franchise,
32 and a description of the franchise, including a description of the goods,
33 training programs, supervision, advertising, promotion and other
34 services provided by the franchisor and a description of the method
35 utilized and the responsibilities of the franchisor or the franchisee in
36 determining the location and in acquiring the premises, if any, for the
37 franchisee's business;

38 (j) a statement of the initial franchise fee charged, the proposed
39 application of the proceeds of such fee by the franchisor and the
40 formula by which the amount of such fee is determined if not uniform;
41 a statement indicating whether and under what conditions all or part of
42 the initial franchise fee may be returned to the franchisee; and a

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1 description of the estimated total investment to be made by the
2 franchisee, including without limitation, lease and installment purchase
3 obligations;

4 (k) a description of all other franchise fees to be paid by the
5 franchisee and a statement describing any payments or fees other than
6 franchise fees that the franchisee is required to pay to the franchisor or
7 its affiliates, including payments of fees which the franchisor collects
8 in whole or in part on behalf of a third party or parties;

9 (l) a statement of whether the franchisee is required to purchase
10 from the franchisor or his affiliates or designees services, supplies,
11 products, fixtures, or other goods relating to the establishment or
12 operation of the franchise business, together with a description thereof
13 and a statement of whether and of the means by which the franchisor
14 derives income from such purchases;

15 (m) a statement as to whether the franchisee is limited in the goods
16 or services he may offer to his customers;

17 (n) a statement of the terms and conditions of any financing
18 arrangements when offered directly or indirectly by the franchisor or
19 his affiliate, including a description of any waiver of defenses or
20 similar provisions in any note, contract or other instrument to be
21 executed by the franchisee; and a statement of any past or present
22 practice, or of any intent, of the franchisor to sell, assign, or discount
23 to a third party, in whole or in part, any note, contract or other
24 instrument executed by the franchisee;

25 (o) a copy of any statement of estimated sales or earnings prepared
26 for presentation to prospective franchisees, together with a statement
27 setting forth the data upon which the estimates are based, including,
28 where applicable, data with respect to the sales and earnings history of
29 existing franchisees, as a group, including the sales and earnings of the
30 least profitable and most profitable of such existing franchises, without
31 naming them;

32 (p) a statement of any compensation or other benefit given or
33 promised to a public figure arising, in whole or in part, from: (1) the
34 use of the public figure in the name or symbol of the franchise; or (2)
35 the endorsement or recommendation of the franchise by the public
36 figure in any advertisement;

37 (q) a statement of the number of franchise businesses presently
38 being operated by the franchisees and the number presently owned or
39 being operated by the franchisor;

40 (r) a statement of whether the franchisor requires the franchisee to
41 participate personally in the direct operation of the franchise operation;

42 (s) a statement as to whether franchisees are granted an area or

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territory within which the franchisor agrees not to operate or grant additional franchises for the operation of the franchise business or in which the franchisor will operate or grant franchises for the operation of no more than a specified number of additional franchise businesses;

(t) a statement of the conditions under which the franchise agreement may be terminated or renewal refused; a statement of the obligations of the franchisee upon termination or expiration of the franchise; a statement of the conditions and terms under which the franchise or the assets or ownership of the franchise business may be repurchased at the option of the franchisor and of any right of the first refusal or similar right which the franchisor has to repurchase the franchise or the assets or ownership of the franchise business; and, a statement of the conditions and terms under which the franchisee is permitted to sell or otherwise transfer the franchise, or the assets or ownership of the franchise business, or interests therein;

(u) a statement explaining the terms and effect of any covenant not to compete which is or will be included in the franchise or other agreement to be executed by the franchisee;

(v) a statement that the franchisor on request will make available a list of the names, addresses, and telephone numbers of all franchise businesses operating under contract with the franchisor located in Indiana and to the extent that there are less than ten (10) such franchise businesses located in Indiana, such list shall include at least ten (10) such franchise businesses located in Indiana and the nearest state or states to Indiana in which there are ten (10) such franchise businesses; and if there are less than ten (10) such franchise businesses located in Indiana and all other states, such list shall identify all such franchise businesses and include a statement to that effect; and

(w) a statement setting out any other facts which are, or may be, material to a prospective franchisee, or which the commissioner considers appropriate.

SECTION 19. IC 23-2-6-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 20. (a) The commissioner may unconditionally or conditionally waive any of the requirements under section 19(c) of this chapter that a person must otherwise satisfy to be considered a qualified seller.

(b) The commissioner may by order deny, suspend, revoke, or limit a person's authority to engage in business as a qualified seller under section 19 of this chapter if the commissioner determines that:

- (1) the order is in the public interest; and
- (2) the person, the person's officers, directors, partners, agents, servants, or employees, any person occupying a similar status or

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performing similar functions, any person who directly or indirectly controls or is controlled by the person or other person listed in this subdivision, or the person's affiliates or subsidiaries meet any of the following conditions:

(A) Has filed a notice of intention under section 19(c) of this chapter that:

- (i) is incomplete in any material respect; or
- (ii) contains a statement that, under the circumstances in which the statement was made, is false or misleading with respect to a material fact.

(B) Has during the preceding ten (10) years:

- (i) ~~pled~~ **entered a plea of guilty, no contest, or not to contendere guilty but mentally ill at the time of the crime** to a crime; or
- (ii) been convicted of a crime;

indicating a lack of fitness to engage in the investment commodity business.

(C) Has been permanently enjoined or temporarily enjoined by a court from engaging in or continuing any conduct or practice that indicates a lack of fitness to engage in the investment commodities business.

(D) Is the subject of an order of the commissioner denying, suspending, or revoking the person's license as:

- (i) a securities broker-dealer;
- (ii) a sales representative; or
- (iii) an investment adviser.

(E) Is the subject of any of the following orders that are in effect and that were issued during the preceding five (5) years.

- (i) An order by the commissioner, by a securities agency or the securities administrator of any other state, Canadian province, or territory, by the Securities and Exchange Commission, or by the Commodity Futures Trading Commission, that was entered after notice and opportunity for hearing and that denied, suspended, or revoked the person's registration as a futures commission merchant, commodity trading adviser, commodity pool operator, securities broker-dealer, sales representative, investment adviser, or any substantially similar occupation.

- (ii) An order suspending or expelling the person from membership in or association with a self-regulatory organization registered under the Securities Exchange Act of 1934 or the Commodity Exchange Act.

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(iii) A United States postal service fraud order.

(iv) A cease and desist order entered after notice and opportunity for hearing by a person described in item (i).

(v) An order entered by the Commodity Futures Trading Commission denying, suspending, or revoking registration under the Commodity Exchange Act.

(F) Has engaged in an unethical or dishonest act or practice in the investment commodities or securities business.

(G) Has failed to reasonably supervise sales representatives or employees.

SECTION 20. IC 23-17-16-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. (a) If an individual is made a party to a proceeding because the individual is or was a director, a corporation may indemnify the individual against liability incurred in the proceeding if:

(1) the individual's conduct was in good faith; and

(2) the individual reasonably believed:

(A) in the case of conduct in the individual's official capacity with the corporation, that the individual's conduct was in the corporation's best interests; and

(B) in all other cases, that the individual's conduct was at least not opposed to the corporation's best interests; and

(3) in the case of any criminal proceeding, the individual:

(A) had reasonable cause to believe the individual's conduct was lawful; or

(B) had no reasonable cause to believe the individual's conduct was unlawful.

(b) A director's conduct with respect to an employee benefit plan for a purpose the director reasonably believed to be in the interests of the participants in and beneficiaries of the plan is conduct that satisfies the requirement of subsection (a)(2)(B).

(c) The termination of a proceeding by judgment, order, settlement, conviction, **plea**, or ~~upon a plea of noto contendere or its equivalent~~ **deferral of conviction or judgment** is not determinative that a director did not meet the standard of conduct described in this section.

SECTION 21. IC 25-2.5-2-6, AS ADDED BY P.L.265-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. The board may deny, suspend, or revoke a license, require remedial education, or issue a letter of reprimand, if an applicant or licensed acupuncturist does any of the following:

(1) Engages in false or fraudulent conduct that demonstrates an unfitness to practice acupuncture, including:

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- 1 (A) making a misrepresentation in connection with an
- 2 application for a license or an investigation by the board;
- 3 (B) attempting to collect fees for services that were not
- 4 performed;
- 5 (C) false advertising, including guaranteeing that a cure will
- 6 result from an acupuncture treatment; or
- 7 (D) dividing, or agreeing to divide, a fee for acupuncture
- 8 services with another person for referring the patient.
- 9 (2) Fails to exercise proper control over the acupuncturist's
- 10 practice by:
 - 11 (A) aiding an unlicensed person in practicing acupuncture;
 - 12 (B) delegating professional responsibilities to a person the
 - 13 acupuncturist knows or should know is not qualified to
 - 14 perform; or
 - 15 (C) insufficiently supervising unlicensed personnel working
 - 16 with the acupuncturist in the practice.
- 17 (3) Fails to maintain records in a proper manner by:
 - 18 (A) failing to keep written records describing the course of
 - 19 treatment for each patient;
 - 20 (B) refusing to provide upon request patient records that have
 - 21 been prepared for or paid for by the patient; or
 - 22 (C) revealing personally identifiable information about a
 - 23 patient, without the patient's consent, unless otherwise allowed
 - 24 by law.
- 25 (4) Fails to exercise proper care of a patient, including:
 - 26 (A) abandoning or neglecting a patient without making
 - 27 reasonable arrangements for the continuation of care; or
 - 28 (B) exercising or attempting to exercise undue influence
 - 29 within the relationship between the acupuncturist and the
 - 30 patient by making sexual advances or requests for sexual
 - 31 activity or by making submission to sexual conduct a condition
 - 32 of treatment.
- 33 (5) Displays habitual substance abuse or mental impairment to the
- 34 degree that it interferes with the ability to provide safe and
- 35 effective treatment.
- 36 (6) Is convicted **of**, pleads guilty **to**, ~~or~~ pleads no contest to, **or**
- 37 **pleads guilty but mentally ill at the time of the crime to a**
- 38 **crime that demonstrates an unfitness to practice acupuncture.**
- 39 (7) Fails, in a negligent manner, to practice acupuncture with the
- 40 level of skill recognized within the profession as acceptable under
- 41 the circumstances.
- 42 (8) Violates willfully any provision of this article or rule of the

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board.

(9) Has had a license denied, suspended, or revoked in another jurisdiction for a reason that would be grounds for denial, suspension, or revocation of a license under this article.

SECTION 22. IC 27-1-7.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. (a) A corporation may indemnify an individual made a party to a proceeding because the individual is or was a director against liability incurred in the proceeding if:

(1) the individual's conduct was in good faith;

(2) the individual reasonably believed:

(A) in the case of conduct in the individual's official capacity with the corporation, that the individual's conduct was in its best interests; and

(B) in all other cases, that the individual's conduct was at least not opposed to its best interests; and

(3) in the case of any criminal proceeding, the individual either:

(A) had reasonable cause to believe the individual's conduct was lawful; or

(B) had no reasonable cause to believe the individual's conduct was unlawful.

(b) A director's conduct with respect to an employee benefit plan for a purpose the director reasonably believed to be in the interests of the participants in and beneficiaries of the plan is conduct that satisfies the requirement of subsection (a)(2).

(c) The termination of a proceeding by judgment, order, settlement, conviction, **plea**, or ~~upon a plea of nolo contendere or its equivalent~~ **deferral of conviction or judgment** is not, of itself, determinative that the director did not meet the standard of conduct described in this section.

SECTION 23. IC 27-1-15.5-8, AS AMENDED BY P.L.268-1999, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. (a) The commissioner may suspend, revoke, refuse to continue, renew, or issue any license issued under this chapter, or impose any of the disciplinary sanctions under subsection (f) if, after notice to the licensee and to the insurer represented and a hearing, the commissioner finds as to the licensee any one (1) or more of the following conditions:

(1) Any materially untrue statement in the license application.

(2) Any cause for which issuance of the license could have been refused had it then existed and been known to the commissioner at the time of issuance.

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(3) Violation of or noncompliance with any insurance laws, violation of any provision of IC 28 concerning the sale of a life insurance policy or an annuity contract, or violation of any lawful rule, regulation, or order of the commissioner or of a commissioner of another state.

(4) Obtaining or attempting to obtain any such license through misrepresentation or fraud.

(5) Improperly withholding, misappropriating, or converting to the licensee's own use any money belonging to policyholders, insurers, beneficiaries, or others received in the course of the licensee's insurance business.

(6) Misrepresentation of the terms of any actual or proposed insurance contract.

(7) A:

(A) conviction of; or

(B) plea of guilty, no contest, or ~~not to contend~~ **guilty but mentally ill at the time of the crime** to;

a felony or misdemeanor involving moral turpitude.

(8) The licensee has been found guilty of any unfair trade practice or of fraud.

(9) In the conduct of the licensee's affairs under the license, the licensee has used fraudulent, coercive, or dishonest practices, or has shown himself to be incompetent, untrustworthy, or financially irresponsible, or not performing in the best interests of the insuring public.

(10) The licensee's license has been suspended or revoked in any state, province, district, or territory.

(11) The licensee has forged another's name to an application for insurance.

(12) An applicant has been found to have been cheating on an examination for an insurance license.

(13) The applicant or licensee is on the most recent tax warrant list supplied to the commissioner by the department of state revenue.

(14) The licensee has failed to satisfy the continuing education requirements under section 7.1 of this chapter.

(15) The licensee has violated section 24 of this chapter.

(b) The commissioner shall refuse to:

(1) issue a license; or

(2) renew a license issued;

under this chapter to any person who is the subject of an order issued by a court under IC 31-14-12-7 or IC 31-16-12-10 (or

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IC 31-1-11.5-13(m) or IC 31-6-6.1-16(m) before their repeal).

(c) In the event that the action by the commissioner is to not renew or to deny an application for a license, the commissioner shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reasons for the denial or nonrenewal of the applicant's or licensee's license. Not later than sixty (60) days after receiving a notice from the commissioner under this subsection, the applicant or licensee may make written demand upon the commissioner for a hearing to determine the reasonableness of the commissioner's action. Such hearing shall be held within thirty (30) days from the date of receipt of the written demand of the applicant.

(d) The license of a corporation may be suspended, revoked, or refused if the commissioner finds, after hearing, that an individual licensee's violation was known or should have been known by one (1) or more of the officers or managers acting on behalf of the corporation and such violation was not reported to the insurance department nor corrective action taken in relation to the violation.

(e) In addition to or in lieu of any applicable denial, suspension, or revocation of a license, any person violating this chapter may, after hearing, be subject to a civil penalty of not less than fifty dollars (\$50) nor more than ten thousand dollars (\$10,000). Such a penalty may be enforced in the same manner as civil judgments.

(f) The commissioner may impose any of the following sanctions, singly or in combination, when the commissioner finds that a licensee is guilty of any offense under subsection (a):

(1) Permanently revoke (as defined in subsection (i)) a licensee's certificate.

(2) Revoke a licensee's certificate with a stipulation that the licensee may not reapply for a certificate for a period fixed by the commissioner. The fixed period may not exceed ten (10) years.

(3) Suspend a licensee's certificate.

(4) Censure a licensee.

(5) Issue a letter of reprimand.

(6) Place a licensee on probation status and require the licensee to:

(A) report regularly to the commissioner upon the matters that are the basis of probation;

(B) limit practice to those areas prescribed by the commissioner; or

(C) continue or renew professional education under a licensee approved by the commissioner until a satisfactory degree of skill has been attained in those areas that are the basis of the

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1 probation.

2 The commissioner may withdraw the probation if the
3 commissioner finds that the deficiency that required disciplinary
4 action has been remedied.

5 (g) The commissioner may order the licensee to make restitution if
6 the commissioner finds that the licensee has violated:

- 7 (1) subsection (a)(5);
- 8 (2) subsection (a)(8);
- 9 (3) subsection (a)(9); or
- 10 (4) section 24 of this chapter.

11 (h) The insurance commissioner shall notify the securities
12 commissioner when an administrative action or civil proceeding is filed
13 under this section and when an order is issued under this section
14 denying, suspending, or revoking a license.

15 (i) For purposes of subsection (f), "permanently revoke" means that
16 the licensee's certificate shall never be reinstated and the licensee shall
17 not be eligible to submit an application for a certificate to the
18 department.

19 SECTION 24. IC 27-8-19.8-19 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 19. After a hearing
21 under IC 4-21.5, the department may suspend, revoke, or refuse to
22 renew a viatical settlement provider's license, or impose a civil penalty,
23 or both, if the department finds any of the following:

- 24 (1) There was a misrepresentation in the application for the
25 license.
- 26 (2) The viatical settlement provider is untrustworthy or
27 incompetent to act as a viatical settlement provider.
- 28 (3) The viatical settlement provider demonstrates a pattern of
29 unreasonable payments to viators.
- 30 (4) The viatical settlement provider has been convicted of or
31 pleaded guilty, **no contest**, or ~~nolo contendere~~ **guilty but**
32 **mentally ill at the time of the crime** to an offense the definition
33 of which includes fraudulent acts as an element of the offense
34 regardless of whether a judgement has been entered by the court.
- 35 (5) The viatical settlement provider no longer meets the
36 requirements for initial licensure.
- 37 (6) The viatical settlement provider has failed to honor the
38 contractual obligations of a viatical settlement contract.
- 39 (7) The viatical settlement provider has violated this chapter.

40 SECTION 25. IC 27-10-3-8 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. (a) The
42 commissioner shall deny, suspend, revoke, or refuse to renew any

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license issued under this article for any of the following causes:

- (1) Any cause for which issuance of the license could have been refused had it then existed and been known to the commissioner.
- (2) Violation of any laws of this state in the course of dealings under any license issued the licensee by the commissioner.
- (3) Material misstatement, misrepresentation, or fraud in obtaining the license.
- (4) Misappropriation, conversion, or unlawful withholding of money belonging to insurers or others and received in the conduct of business under any license issued to the licensee by the commissioner.
- (5) Fraudulent or dishonest practices in the conduct of business under any license issued to the licensee by the commissioner.
- (6) Willful failure to comply with or willful violation of any proper order or rule of the commissioner.
- (7) When, in the judgment of the commissioner, the licensee has, in the conduct of affairs under the license, demonstrated:
 - (A) incompetency or untrustworthiness;
 - (B) conduct or practices rendering the licensee unfit to carry on the bail bond business or making the licensee's continuance in such business detrimental to the public interest;
 - (C) that the licensee is no longer in good faith carrying on the bail bond business; or
 - (D) that the licensee is guilty of rebating, or offering to rebate, or unlawfully dividing, or offering to divide, the licensee's commissions in the case of limited surety agents;
 and for such reasons is found by the commissioner to be a source of detriment, injury, or loss to the public.
- (8) The listing of the name of the applicant or licensee on the most recent tax warrant list supplied to the commissioner by the department of state revenue.

(b) The commissioner shall refuse to:

- (1) issue a license; or
- (2) renew a license issued;

under this chapter to a person who is the subject of an order issued by a court under IC 31-14-12-7 or IC 31-16-12-10 (or IC 31-1-11.5-13(m) or IC 31-6-6.1-16(m) before their repeal).

(c) The commissioner may also levy a civil penalty of not more than ten thousand dollars (\$10,000) for any of the causes listed in subsection

(a). Any civil penalty levied under this subsection may be enforced in the same manner as a civil judgment.

(d) When a person who holds a license under this chapter enters a

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1 plea of guilty, **no contest, or guilty but mentally ill at the time of the**
 2 **crime** to a disqualifying offense, the commissioner, immediately upon
 3 the court's acceptance of the plea, shall revoke the person's license. The
 4 commissioner shall revoke the license of any person who is convicted
 5 of a disqualifying offense immediately upon conviction. The pending
 6 of sentencing or the pending of an appeal of a conviction of a
 7 disqualifying offense does not stay the revocation of a license under
 8 this subsection. A person convicted of a felony is not eligible to reapply
 9 for a license until ten (10) years from the date of conviction or release
 10 from imprisonment, parole, or probation, whichever is later. A person
 11 convicted of a misdemeanor disqualifying offense is not eligible to
 12 reapply for a license until five (5) years from the date of conviction or
 13 release from imprisonment, parole, or probation, whichever is later.

14 SECTION 26. IC 27-11-3-3 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) The officers and
 16 members of the supreme governing body or any subordinate body of a
 17 society are not personally liable for any benefits provided by a society.

18 (b) Any person may be indemnified and reimbursed by any society
 19 for expenses reasonably incurred by and liabilities imposed upon the
 20 person in connection with or arising out of any action, suit, or
 21 proceeding, whether civil, criminal, administrative, or investigative, or
 22 threat thereof, in which the person may be involved by reason of the
 23 fact that the person is or was a director, officer, employee, or agent of
 24 the society or of any firm, limited liability company, corporation, or
 25 organization that the person served in any capacity at the request of the
 26 society. A person shall not be indemnified or reimbursed:

27 (1) in relation to any matter in such action, suit, or proceeding as
 28 to which the person is adjudged to be or has been guilty of breach
 29 of a duty as a director, officer, employee, or agent of the society;
 30 or

31 (2) in relation to any matter in an action, suit, proceeding, or
 32 threat that has been made the subject of a compromise settlement;
 33 unless in either case the person acted in good faith for a purpose the
 34 person reasonably believed to be in or not opposed to the best interests
 35 of the society and, in a criminal action or proceeding, had no
 36 reasonable cause to believe that this conduct was unlawful.

37 (c) The determination whether the conduct of such person met the
 38 standard required in order to justify indemnification and
 39 reimbursement in relation to any matter described in subsection (b)(1)
 40 or (b)(2) may only be made by the supreme governing body or board of
 41 directors by a majority vote of a quorum consisting of persons who
 42 were not parties to the action, suit, or proceeding or by a court of

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competent jurisdiction. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, **plea**, or ~~upon a plea of no contest~~ **deferral of conviction or judgment** does not in itself create a conclusive presumption that the person did not meet the standard of conduct required in order to justify indemnification and reimbursement.

(d) The right of indemnification and reimbursement provided in this section is not exclusive of other rights to which the person may be entitled as a matter of law and shall inure to the benefit of that person's heirs, executors, and administrators.

(e) A society may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, or agent of the society or who is or was serving at the request of the society as a director, officer, employee, or agent of any other firm, corporation, limited liability company, or organization against any liability asserted against the person and incurred by the person in any such capacity or arising out of the person's status, whether or not the society would have the power to indemnify the person against such liability under this section.

SECTION 27. IC 27-14-2-5, AS ADDED BY P.L.5-2000, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. A plan of reorganization filed with the commissioner under this chapter must meet the following requirements:

(1) It must describe all significant terms of the proposed reorganization.

(2) It must describe in a narrative form any plan to issue stock that may be proposed in connection with the plan of reorganization.

(3) It must:

(A) describe the reasons for and purposes of the proposed reorganization;

(B) describe the manner in which the reorganization is expected to benefit and serve the best interests of the members; and

(C) include an analysis of the risks and benefits to the MIC and its members of the proposed reorganization, and compare those risks and benefits with the risks and benefits of reasonable alternatives (including demutualization of the MIC) to the reorganization.

(4) It must provide that:

(A) a member's interest in the MIC becomes a member's interest in the MIHC;

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- 1 (B) the members' surplus protection principle will govern the
 2 actions of the MIHC and its subsidiaries;
 3 (C) a member's interest in the MIHC may not be transferred,
 4 assigned, pledged, or alienated in any manner except in
 5 connection with a transfer, assignment, pledge, or alienation
 6 of the policy from which the member's interest is derived; and
 7 (D) any member's interest in an MIHC will automatically
 8 terminate upon the lapse or other termination of the policy
 9 from which the member's interest is derived.
- 10 (5) It must describe how the plan of reorganization is to be
 11 effected, including a description of a contemplated transfer,
 12 acquisition, or assumption of assets, rights, franchises, interests,
 13 debts, liabilities, or other obligations of the applicant and any
 14 other company affected by the plan or reorganization.
- 15 (6) It must describe the:
 16 (A) establishment of companies;
 17 (B) amendment or restatement of the articles of incorporation
 18 and bylaws of a company; and
 19 (C) merger of companies;
 20 that will take place under the plan of reorganization.
- 21 (7) It must provide a list of:
 22 (A) all individuals who are or have been selected to become
 23 directors or officers of the MIHC or any company that is a
 24 subsidiary of the MIHC; and
 25 (B) other individuals who perform or will perform duties
 26 customarily performed by a director or officer.
- 27 (8) The list prepared under subdivision (7) must include, for each
 28 individual on the list:
 29 (A) the individual's principal occupation;
 30 (B) all offices and positions the individual has held in the
 31 preceding five (5) years;
 32 (C) any crime of which the individual has been convicted
 33 (other than traffic violations) in the preceding ten (10) years;
 34 (D) information concerning any personal bankruptcy of the
 35 individual or the individual's spouse during the previous seven
 36 (7) years;
 37 (E) information concerning the bankruptcy of any corporation
 38 of which the individual was an officer or director during the
 39 previous seven (7) years;
 40 (F) information concerning any state or federal securities law
 41 allegations against the individual that within the previous ten
 42 (10) years resulted in a:

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- 1 (i) determination that the individual violated the state or
- 2 federal securities law;
- 3 (ii) plea of ~~not a contender~~; **no contest or guilty but**
- 4 **mentally ill at the time of the crime**; or
- 5 (iii) consent decree;
- 6 (G) information concerning the revocation during the previous
- 7 ten (10) years of any state or federal license issued to the
- 8 individual; and
- 9 (H) information as to whether the individual was refused a
- 10 performance or other bond during the previous ten (10) years.
- 11 (9) It must provide that any policy of any reorganized insurer that
- 12 goes into force after the effective date of the reorganization, will
- 13 provide that:
- 14 (A) the owner of the policy; or
- 15 (B) another person or persons specified in the:
- 16 (i) policy; or
- 17 (ii) MIHC's articles of incorporation or bylaws;
- 18 becomes a member of the MIHC. However, a plan of
- 19 reorganization may provide that any person who becomes an
- 20 owner of a policy or who would otherwise become a member
- 21 under a policy issued during a particular period of not more than
- 22 three (3) years immediately after the effective date of the plan of
- 23 reorganization will not become a member until after the
- 24 expiration of that period.
- 25 (10) It must provide that, with regard to a policy of the MIC in
- 26 force on the effective date of the plan of reorganization:
- 27 (A) the policy continues to remain in force under the policy's
- 28 terms as the policy of a reorganized insurer;
- 29 (B) the holder of a participating policy continues to have the
- 30 right to receive policy dividends as provided for in the policy;
- 31 and
- 32 (C) the policyholder's right to benefits, values, guarantees, and
- 33 other contractual obligations of the MIC continues after the
- 34 effective date of the plan of reorganization as obligations of
- 35 the reorganized insurer.
- 36 (11) It must describe the nature and content of the report and
- 37 financial statement to be sent annually to each member following
- 38 the reorganization.
- 39 (12) It must provide that, in the event of proceedings under
- 40 IC 27-9 involving a reorganized insurer, the assets of the MIHC
- 41 that is affiliated with the reorganized insurer are available to
- 42 satisfy the policyholder obligations of the reorganized insurer.

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(13) It must provide that the name of the reorganized insurer does not include the term "mutual", except as approved by the commissioner as not being misleading to the policyholders or the public.

(14) It must provide any additional information that the commissioner may request.

SECTION 28. IC 27-15-3-2, AS ADDED BY P.L.94-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. The application must contain the following information, together with such additional information as the commissioner may require:

(1) The plan of conversion and a certificate of the secretary of the converting mutual certifying the adoption of the plan by the board of directors.

(2) A statement of the reasons for the proposed conversion and why the conversion is in the best interests of the converting mutual, the eligible members, and the other policyholders. The statement must include an analysis of the risks and benefits to the converting mutual and its members of the proposed conversion and a comparison of the risks and benefits of the conversion with the risks and benefits of reasonable alternatives to a conversion.

(3) A five (5) year business plan and at least two (2) years of financial projections of the former mutual and any parent company.

(4) Any plans that the former mutual or any parent company may have to:

(A) raise additional capital through the issuance of stock or otherwise;

(B) sell or issue stock to any person, including any compensation or benefit plan for directors, officers, or employees under which stock may be issued;

(C) liquidate or dissolve any company or sell any material assets;

(D) merge or consolidate or pursue any other form of reorganization with any person; or

(E) make any other material change in investment policy, business, corporate structure, or management.

(5) Any plans for a delayed distribution of consideration to eligible members or restrictions on sale or transfer of stock or other securities.

(6) A copy of the form of trust agreement, if a distribution of consideration is to be delayed by more than six (6) months after

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the effective date of the conversion.

(7) A plan of operation for a closed block, if a closed block is used for the preservation of the reasonable dividend expectations of eligible members and other policyholders with policies that provide for the distribution of policy dividends.

(8) Copies of the amendment to the articles of incorporation proposed by the board of directors and the proposed bylaws of the former mutual and copies of the existing and any proposed articles of incorporation and bylaws of any parent company.

(9) A list of all individuals who are or have been selected to become directors or officers of the former mutual and any parent company, or the individuals who perform or will perform duties customarily performed by a director or officer, and the following information concerning each individual on the list unless the information is already on file with the commissioner:

(A) The individual's principal occupation.

(B) All offices and positions the individual has held in the preceding five (5) years.

(C) Any crime of which the individual has been convicted (other than traffic violations) in the preceding ten (10) years.

(D) Information concerning any personal bankruptcy of the individual or the individual's spouse during the previous seven (7) years.

(E) Information concerning the bankruptcy of any corporation or other entity of which the individual was an officer or director during the previous seven (7) years.

(F) Information concerning allegations of state or federal securities law violations made against the individual that within the previous ten (10) years resulted in:

(i) a determination that the individual violated state or federal securities law;

(ii) a plea of ~~noto contendere~~, **no contest or guilty but mentally ill at the time of the crime**; or

(iii) a consent decree.

(G) Information concerning the suspension, revocation, or other disciplinary action during the previous ten (10) years of any state or federal license issued to the individual.

(H) Information as to whether the individual was refused a bond during the previous ten (10) years.

(10) A fairness opinion addressed to the board of directors of the converting mutual from a qualified, independent financial adviser, asserting:

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(A) that the provision of stock, cash, policy benefits, or other forms of consideration upon the extinguishing of the converting mutual's membership interests under the plan of conversion and the amendment to the articles of incorporation is fair to the eligible members, as a group, from a financial point of view; and

(B) whether the total consideration under clause (A) is equal to or greater than the surplus of the converting mutual.

(11) An actuarial opinion as to the following:

(A) The reasonableness and appropriateness of the methodology or formulas used to allocate consideration among eligible members, consistent with this article.

(B) The reasonableness of the plan of operation and the sufficiency of the assets allocated to the closed block, if a closed block is used for the preservation of the reasonable dividend expectations of eligible members and other policyholders with policies that provide for the distribution of policy dividends.

(12) If any of the consideration to be distributed to eligible members consists of stock or other securities, a description of the plans made by the former mutual or its parent company to assure that an active public trading market for the stock or other securities will develop within a reasonable amount of time after the effective date of the plan of conversion and that eligible members who receive stock or other securities will be able to sell their stock or other securities, subject to any delayed distribution or transfer restrictions under this article, at reasonable cost and effort. The plans may consist of the following:

(A) Appointing a registrar and transfer agent for the stock or other securities.

(B) Making filings, applications, or registrations for the stock or other securities with the federal Securities and Exchange Commission and state securities commissioners.

(C) Listing the stock or other securities on a national or other securities exchange.

(D) Facilitating coverage of the stock or other securities by research analysts and securing the commitment of at least one (1) market maker to make a market in the stock or other securities.

(E) Conducting an underwritten public offering of the same class of stock or other securities, promptly following the effectiveness of the plan of conversion, in order to facilitate

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the development of a public market.

(F) Making available a procedure for eligible members holding small numbers or amounts of stock or other securities to sell their stock or other securities to the former mutual or a parent company at market value without the payment of brokerage commissions or similar fees, or to sell their stock or other securities in the market through a broker with discounted brokerage commissions or fees.

(13) Any additional information, documents, or materials that the converting mutual determines to be necessary.

(14) Any other additional information, documents, or materials that the commissioner requests in writing.

SECTION 29. IC 28-13-13-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. (a) A corporation may indemnify an individual made a party to a proceeding because the individual is or was a director against liability incurred in the proceeding if:

(1) the individual's conduct was in good faith; and

(2) the individual reasonably believed:

(A) in the case of conduct in the individual's official capacity with the corporation, that the individual's conduct was in the corporation's best interests; and

(B) in all other cases, that the individual's conduct was at least not opposed to the corporation's best interests; and

(3) in the case of any criminal proceeding, the individual either:

(A) had reasonable cause to believe the individual's conduct was lawful; or

(B) had no reasonable cause to believe the individual's conduct was unlawful.

(b) A director's conduct with respect to an employee benefit plan for a purpose the director reasonably believed to be in the interests of the participants in and beneficiaries of the plan is conduct that satisfies the requirement of subsection (a)(2).

(c) The termination of a proceeding by judgment, order, settlement, conviction, **plea**, or ~~upon a plea of not contendere or its equivalent~~ **deferral of judgement or conviction** is not, of itself, determinative that the director did not meet the standard of conduct described in this section.

SECTION 30. IC 31-30-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) The juvenile court does not have jurisdiction over an individual for an alleged violation of:

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- (1) IC 35-42-1-1 (murder);
 - (2) IC 35-42-3-2 (kidnapping);
 - (3) IC 35-42-4-1 (rape);
 - (4) IC 35-42-4-2 (criminal deviate conduct);
 - (5) IC 35-42-5-1 (robbery) if:
 - (A) the robbery was committed while armed with a deadly weapon; or
 - (B) the robbery results in bodily injury or serious bodily injury;
 - (6) IC 35-42-5-2 (carjacking);
 - (7) IC 35-45-9-3 (criminal gang activity);
 - (8) IC 35-45-9-4 (criminal gang intimidation);
 - (9) IC 35-47-2-1 (carrying a handgun without a license);
 - (10) IC 35-47-10 (children and firearms);
 - (11) IC 35-47-5-4.1 (dealing in a sawed-off shotgun);
 - (12) IC 35-48-4-1 (dealing in cocaine or a narcotic drug);
 - (13) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled substance);
 - (14) IC 35-48-4-3 (dealing in a schedule IV controlled substance);
 - or
 - (15) any offense that may be joined under IC 35-34-1-9(a)(2) with any crime listed in subdivisions (1) through (14);
- if the individual was at least sixteen (16) years of age at the time of the alleged violation.

(b) Once an individual described in subsection (a) has been charged with any crime listed in subsection (a)(1) through (a)(15), the court having adult criminal jurisdiction shall retain jurisdiction over the case even if the individual ~~pleads guilty, enters a plea to~~ or is convicted of a lesser included offense. A ~~plea of guilty to~~ or a conviction of a lesser included offense does not vest jurisdiction in the juvenile court.

SECTION 31. IC 31-37-12-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7. (a) If:

- (1) the prosecuting attorney has not requested that the juvenile court waive the court's jurisdiction; or
- (2) a waiver has been requested and denied;

the juvenile court shall determine whether a child admits, **pleads no contest to**, or denies the allegations of a petition.

(b) A failure to respond constitutes a denial.

SECTION 32. IC 31-37-12-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. If a child admits **or pleads no contest to** the allegations of a petition, the juvenile court shall do the following:



(1) Enter judgment ~~accordingly~~; **that the child is a delinquent child.**

(2) Schedule a dispositional hearing.

SECTION 33. IC 31-37-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. Unless the allegations of a petition have been admitted **or a plea of no contest has been given**, the juvenile court shall hold a factfinding hearing.

SECTION 34. IC 33-2.1-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. ~~Grounds for Removal.~~ Each judge of those courts included in section 3 of this chapter shall be disqualified from acting as a judicial officer, without loss of salary while there is pending (1) an indictment or information charging him in any court in the United States with a crime punishable as a felony under the laws of Indiana or the United States, or (2) a recommendation to the Supreme Court by the Commission on Judicial Qualifications for his removal or retirement. On recommendation of the Commission on Judicial Qualifications or on its own motion the Supreme Court may suspend such judge from office without salary when in any court in the United States he pleads guilty, ~~or~~ no contest, **or guilty but mentally ill at the time of the crime to** or is found guilty of a crime punishable as a felony under the laws of Indiana or the United States, or of any other crime that involves moral turpitude under the law. If his conviction is reversed, suspension terminates and he shall be paid his salary for the period of suspension. If he is suspended and his conviction becomes final, the Supreme Court shall remove him from office.

On recommendations of the Commission on Judicial Qualifications the Supreme Court may (1) retire such judge for disability that seriously interferes with the performance of his duties and is or is likely to become permanent, and (2) censure or remove such judge, for action occurring not more than six (6) years prior to the commencement of his current term, when such action constitutes willful misconduct in office, willful or persistent failure to perform his duties, habitual intemperance, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

A judge so retired by the Supreme Court shall be considered to have retired voluntarily. A judge so removed by the Supreme Court is ineligible for judicial office and pending further order of the court he is suspended from the practice of law in this state.

SECTION 35. IC 33-5-40-50 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 50. (a) On recommendation of the commission the supreme court of Indiana may

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suspend a judge of the St. Joseph superior court from office without salary when in any court in the United States he enters a plea of guilty, **no contest, or of nolo contendere guilty but mentally ill at the time of the crime** to, or is found guilty of, any crime punishable as a felony under the laws of the state of Indiana or of the United States, or of any other crime that involves moral turpitude under that law. If his conviction is reversed, suspension terminates, and he shall be paid his salary for the period of suspension. If he is suspended and his conviction is affirmed or otherwise becomes final, the supreme court shall remove him from office.

(b) On recommendation of the commission, the supreme court may:

(1) retire a judge of the St. Joseph superior court for disability that seriously interferes with the performance of his duties and is likely to become permanent, and;

(2) censure or remove a judge of the St. Joseph superior court for conduct occurring not more than six (6) years prior to the commencement of his current term, when the conduct constitutes wilful misconduct in office, wilful and persistent failure to perform his duties, habitual intemperance, or conduct prejudicial to the administration of justice or which brings or tends to bring judicial office into disrepute.

(c) When the supreme court of Indiana receives any recommendation from the commission, it shall hold a hearing, at which the affected judge is entitled to be present, and shall make a determination as shall be required. The supreme court of Indiana shall make rules regarding the convening and conduction of such hearings, which shall, upon request of the judge whom it concerns, be public.

SECTION 36. IC 33-9-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) The public defender of the state of Indiana shall prepare and maintain a schedule of minimum attorney fees for all general classifications of criminal trials, and proceedings on plea of guilty, **no contest, or guilty but mentally ill at the time of the crime**, subject to the approval of the supreme court of Indiana, which schedule shall be furnished upon request to all courts having criminal jurisdiction, and no fee approved by any court for such services of the public defender of the state of Indiana, his deputy, or any attorney appointed by the said public defender and such judge pursuant to such request made to the said public defender, shall be less than the approved minimum fee provided in said schedule.

(b) In cases where there has been a change of venue, the presiding judge may not approve a fee for a public defender from the office of the



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public defender of the state of Indiana that exceeds one hundred twenty-five percent (125%) of the minimum fee schedule established under this chapter.

SECTION 37. IC 33-10.5-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. ~~Suspension.~~ On recommendation of the commission on judicial qualifications or on its own motion, the supreme court may suspend a judge from office without salary when, in any court in the United States, he pleads guilty, no contest, **or guilty but mentally ill at the time of the crime**, or is found guilty of a crime punishable as a felony under the laws of a state or the United States, or any crime that involves moral turpitude under the law. If his conviction is reversed, suspension terminates and he shall be paid his salary for the period of suspension. If he is suspended and his conviction becomes final, the supreme court shall remove him from office.

SECTION 38. IC 34-28-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. In an action for a ~~moving traffic violation~~, **an infraction**, the pleadings are as follows:

- (1) A summons and complaint.
- (2) Entry by a defendant of:
 - (A) an admission to the violation;
 - (B) a denial of the violation; or
 - (C) a declaration of ~~noto contendere~~ **no contest** in which the defendant consents to entry of judgment for the state without admitting to the violation.

SECTION 39. IC 34-28-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) A defendant against whom a judgment is entered is liable for costs. Costs are part of the judgment and may not be suspended except under IC 9-30-3-12. Whenever a judgment is entered against a person for the commission of two (2) or more civil violations (infractions or ordinance violations), the court may waive the person's liability for costs for all but one (1) of the violations. This subsection does not apply to judgments entered for violations constituting:

- (1) Class D infractions; or
 - (2) Class C infractions for unlawfully parking in a space reserved for a person with a physical disability under IC 5-16-9-5 or IC 5-16-9-8.
- (b) If a judgment is entered:
- (1) for a violation constituting:
 - (A) a Class D infraction; or
 - (B) a Class C infraction for unlawfully parking in a space



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reserved for a person with a physical disability under
IC 5-16-9-5 or IC 5-16-9-8; or

(2) in favor of the defendant in any case;
the defendant is not liable for costs.

(c) Except for costs, the funds collected as judgments for violations
of statutes defining infractions shall be deposited in the state general
fund.

(d) A judgment may be entered against a defendant under this
section or section 4 of this chapter upon a finding by the court that the
defendant:

(1) violated:

(A) a statute defining an infraction; or

(B) an ordinance; or

(2) consents to entry of judgment for the plaintiff upon a pleading
of ~~nolo contendere~~ **no contest** for a ~~moving~~ **traffic** violation.

SECTION 40. IC 34-28-5-8 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. The violations clerk
or deputy violations clerk shall:

(1) accept:

(A) written appearances;

(B) waivers of trial;

(C) admissions of violation;

(D) declarations of ~~nolo contendere~~ **no contest** for ~~moving~~
traffic violations;

(E) payments of judgments (including costs) in traffic
violation cases; and

(F) deferral agreements made under section 1(f) of this chapter
(or IC 34-4-32-1(f) before its repeal) and deferral program fees
prescribed under IC 33-19-5-2(e);

(2) issue receipts and account for any judgments (including costs)
collected; and

(3) pay the judgments (including costs) collected to the
appropriate unit of government as provided by law.

SECTION 41. IC 34-28-5-11 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11. Any person charged
with a ~~traffic~~ violation that is within the authority of the violations clerk
may mail or deliver:

(1) the amount of the judgment (including costs) indicated on the
ticket; and

(2) a signed:

(A) admission of the violation; or

(B) pleading of ~~nolo contendere~~; if the action is for a ~~moving~~

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~~traffic violation.~~ **no contest.**

SECTION 42. IC 34-28-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 12. Before accepting a pleading admitting to a violation or entering a declaration of ~~noto contendere~~ **no contest** to a violation, the violations clerk or the officer writing the ticket shall inform the person that:

(1) the person's signature to:

(A) an admission of the violation; or

(B) a pleading of ~~noto contendere~~ **no contest**;

will have the same effect as a judgment of a court; and

(2) the record of judgment will be sent to the commissioner of motor vehicles of Indiana or the state where the person received a license to drive.

SECTION 43. IC 34-28-5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 14. If a person named as a defendant in a summons and complaint issued under IC 5-16-9-10, before the appearance date specified in the summons and complaint, mails or delivers the following to the court having jurisdiction over the action:

(1) an admission of the violation or a plea of ~~noto contendere~~ **no contest** to the violation; and

(2) a fifty dollar (\$50) civil judgment;

the court shall enter a judgment against the defendant for the violation. An admission or plea of ~~noto contendere~~ **no contest** received by the court under this section (or IC 34-4-32-6 before its repeal) constitutes a written appearance and the defendant is not required to personally appear before the court.

SECTION 44. IC 34-28-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. The time specified for appearance must be at least five (5) days after the arrest or stop unless the person demands an earlier arraignment. The place specified for appearance must be in a court having jurisdiction within the county where the person was arrested or given notice to appear. The person shall be properly informed of the consequences of a guilty plea, **plea of no contest**, or **other** agreed judgment.

SECTION 45. IC 34-39-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) Evidence of a final judgment that:

(1) is entered after a trial or upon a plea of guilty, **no contest**, or **guilty but mentally ill at the time of the crime**; and

(2) adjudges a person guilty of a crime punishable by death or imprisonment of more than one (1) year;



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1 shall be admissible in a civil action to prove any fact essential to
 2 sustaining the judgment, and is not excluded from admission as hearsay
 3 regardless of whether the declarant is available as a witness.

4 (b) The pendency of an appeal may be shown but does not affect the
 5 admissibility of evidence under this section.

6 SECTION 46. IC 35-34-1-10 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10. (a) When a
 8 defendant has been charged with two (2) or more offenses in two (2) or
 9 more indictments or informations and the offenses could be joined in
 10 the same indictment or information under section 9(a)(1) of this
 11 chapter, the court, upon motion of the defendant, may order that the
 12 indictments or informations be joined for trial. Such motion shall be
 13 made before commencement of trial on either of the offenses charged.

14 (b) When a defendant has been charged with two (2) or more
 15 offenses in two (2) or more indictments or informations and the
 16 offenses could have been joined in the same indictment or information
 17 under section (9)(a)(2) of this chapter, the court, upon motion of the
 18 defendant or the prosecuting attorney, or on its own motion, shall join
 19 for trial all of such indictments or informations unless the court, in the
 20 interests of justice, orders that one (1) or more of such offenses shall be
 21 tried separately. Such motion shall be made before commencement of
 22 trial on either of the offenses charged.

23 (c) A defendant who has been tried for one (1) offense may
 24 thereafter move to dismiss an indictment or information for an offense
 25 which could have been joined for trial with the prior offenses under
 26 section 9 of this chapter. The motion to dismiss shall be made prior to
 27 the second trial, and shall be granted if the prosecution is barred by
 28 reason of the former prosecution.

29 (d) A defendant who has been sentenced on a plea of guilty, **no**
 30 **contest, or guilty but mentally ill at the time of the crime** to one (1)
 31 offense may move to dismiss an indictment or information for a related
 32 offense. The motion shall be granted if the plea of ~~guilty~~
 33 on the basis of a plea agreement in which the prosecutor agreed to seek
 34 or not to oppose dismissal of other related offenses or not to prosecute
 35 other potential related offenses.

36 (e) Subject to the provisions of section 11(a) of this chapter, two (2)
 37 or more offenses which are within the jurisdiction of the same court
 38 and which could have been joined in one (1) prosecution constitute
 39 related offenses.

40 SECTION 47. IC 35-35-1-1 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. A plea of guilty, **no**
 42 **contest, or guilty but mentally ill at the time of the crime**, shall not be

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1 accepted from a defendant unrepresented by counsel who has not freely
2 and knowingly waived his right to counsel.

3 SECTION 48. IC 35-35-1-2 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) The court shall
5 not accept a plea of guilty, **no contest**, or guilty but mentally ill at the
6 time of the crime without first determining that the defendant:

- 7 (1) understands the nature of the charge against him;
- 8 (2) has been informed that by his plea he waives his rights to:
 - 9 (A) a public and speedy trial by jury;
 - 10 (B) confront and cross-examine the witnesses against him;
 - 11 (C) have compulsory process for obtaining witnesses in his
 - 12 favor; and
 - 13 (D) require the state to prove his guilt beyond a reasonable
 - 14 doubt at a trial at which the defendant may not be compelled
 - 15 to testify against himself;
- 16 (3) has been informed of the maximum possible sentence and
- 17 minimum sentence for the crime charged and any possible
- 18 increased sentence by reason of the fact of a prior conviction or
- 19 convictions, and any possibility of the imposition of consecutive
- 20 sentences; and
- 21 (4) has been informed that if:
 - 22 (A) there is a plea agreement as defined by IC 35-35-3-1; and
 - 23 (B) the court accepts the plea;
- 24 the court is bound by the terms of the plea agreement.

25 (b) A defendant in a misdemeanor case may waive the rights under
26 subsection (a) by signing a written waiver.

27 (c) Any variance from the requirements of this section that does not
28 violate a constitutional right of the defendant is not a basis for setting
29 aside a plea of guilty.

30 SECTION 49. IC 35-35-1-3 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) The court shall
32 not accept a plea of guilty, **no contest**, or guilty but mentally ill at the
33 time of the crime without first determining that the plea is voluntary.
34 The court shall determine whether any promises, force, or threats were
35 used to obtain the plea.

36 (b) The court shall not enter judgment upon a plea of guilty or guilty
37 but mentally ill at the time of the crime unless it is satisfied from its
38 examination of the defendant or the evidence presented that there is a
39 factual basis for the plea.

40 (c) A plea of guilty or guilty but mentally ill at the time of the crime
41 shall not be deemed to be involuntary under subsection (a) solely
42 because it is the product of an agreement between the prosecution and

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1 the defense.

2 SECTION 50. IC 35-35-1-4 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) A motion to
4 withdraw a plea of not guilty for the purpose of entering a plea of
5 guilty, **no contest**, or guilty but mentally ill at the time of the crime,
6 may be made orally in open court and need not state any reason for the
7 withdrawal of the plea.

8 (b) After entry of a plea of guilty, **no contest**, or guilty but mentally
9 ill at the time of the crime, but before imposition of sentence, the court
10 may allow the defendant by motion to withdraw his plea of guilty, **no**
11 **contest**, or guilty but mentally ill at the time of the crime, for any fair
12 and just reason unless the state has been substantially prejudiced by
13 reliance upon the defendant's plea. The motion to withdraw the plea of
14 guilty, **no contest**, or guilty but mentally ill at the time of the crime
15 made under this subsection shall be in writing and verified. The motion
16 shall state facts in support of the relief demanded, and the state may file
17 counter-affidavits in opposition to the motion. The ruling of the court
18 on the motion shall be reviewable on appeal only for an abuse of
19 discretion. However, the court shall allow the defendant to withdraw
20 his plea of guilty, **no contest**, or guilty but mentally ill at the time of
21 the crime, whenever the defendant proves that withdrawal of the plea
22 is necessary to correct a manifest injustice.

23 (c) After being sentenced following a plea of guilty, **no contest**, or
24 guilty but mentally ill at the time of the crime, the convicted person
25 may not as a matter of right withdraw the plea. However, upon motion
26 of the convicted person, the court shall vacate the judgment and allow
27 the withdrawal whenever the convicted person proves that withdrawal
28 is necessary to correct a manifest injustice. A motion to vacate
29 judgment and withdraw the plea made under this subsection shall be
30 treated by the court as a petition for postconviction relief under the
31 Indiana Rules of Procedure for Postconviction Remedies. For purposes
32 of this section, withdrawal of the plea is necessary to correct a manifest
33 injustice whenever:

- 34 (1) the convicted person was denied the effective assistance of
- 35 counsel;
- 36 (2) the plea was not entered or ratified by the convicted person;
- 37 (3) the plea was not knowingly and voluntarily made;
- 38 (4) the prosecuting attorney failed to abide by the terms of a plea
- 39 agreement; or
- 40 (5) the plea and judgment of conviction are void or voidable for
- 41 any other reason.

42 The motion to vacate the judgment and withdraw the plea need not

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allege, and it need not be proved, that the convicted person is innocent of the crime charged or that he has a valid defense.

(d) A plea of guilty, **no contest**, or guilty but mentally ill at the time of the crime, which is not accepted by the court or is withdrawn shall not be admissible as evidence in any criminal, civil, or administrative proceeding.

(e) Upon any motion made under this section, the moving party has the burden of establishing his grounds for relief by a preponderance of the evidence. The order of the court upon a motion made under subsection (b) or (c) of this section shall constitute a final judgment from which the moving party or the state may appeal as otherwise provided by law. The order of the court upon a motion made under subsection (a) of this section is not a final judgment and is not appealable but is reviewable upon appeal from a final judgment subsequently entered.

SECTION 51. IC 35-35-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) Pleadings in criminal proceedings are:

- (1) an indictment;
- (2) an information; and
- (3) pleas of:
 - (A) not guilty;
 - (B) guilty;
 - (C) **no contest**; and
 - (D) guilty but mentally ill at the time of the crime.

Defenses and objections raised before trial which, before July 26, 1973, could have been raised by a plea in abatement, a plea in bar, a demurrer, a motion to quash, or any other plea not specifically allowed under this subsection may be raised only by motion to dismiss or to grant appropriate relief as provided in this title.

(b) Except as provided in this title, an application to the court for an order must be by motion. A motion other than one made during a trial or hearing must be in writing unless the court permits it to be made orally. It must state the grounds upon which it is made and set forth the relief or order sought. It may be supported by affidavit.

(c) Except as provided in this title, whenever the defendant files a motion, the state may file an answer to that motion. If no answer is filed by the state, all issues of fact and law raised by the motion stand at issue and the court shall proceed.

SECTION 52. IC 35-35-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. As used in this chapter:

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"Plea agreement" means an agreement between a prosecuting attorney and a defendant concerning the disposition of a felony or misdemeanor charge.

"Presumptive sentence" means the penalty prescribed by IC 35-50-2 without consideration of mitigating or aggravating circumstances.

"Prosecuting attorney" includes a deputy prosecuting attorney.

"Recommendation" means a proposal that is part of a plea agreement made to a court that:

(1) a felony charge be dismissed; or

(2) a defendant, if he pleads guilty, **no contest, or guilty but mentally ill at the time of the crime** to a felony charge, receive less than the presumptive sentence.

"Victim" means a person who has suffered harm as a result of a crime.

SECTION 53. IC 35-35-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) No plea agreement may be made by the prosecuting attorney to a court on a felony charge except:

(1) in writing; and

(2) before the defendant enters a plea of guilty, **no contest, or guilty but mentally ill at the time of the crime.**

The plea agreement shall be shown as filed, and if its contents indicate that the prosecuting attorney anticipates that the defendant intends to enter a plea of guilty, **no contest, or guilty but mentally ill at the time of the crime** to a felony charge, the court shall order the presentence report required by IC 35-38-1-8 and may hear evidence on the plea agreement.

(b) Neither the content of the plea agreement, the presentence report, nor the hearing shall be a part of the official record of the case unless the court approves the plea agreement. If the plea agreement is not accepted, the court shall reject it before the case may be disposed of by trial or by **a plea of guilty, ~~plea no contest, or guilty but mentally ill at the time of the crime.~~** If the court rejects the plea agreement, subsequent plea agreements may be filed with the court, subject to the same requirements that this chapter imposes upon the initial plea agreement.

(c) A plea agreement in a misdemeanor case may be submitted orally to the court.

(d) In a misdemeanor case, if:

(1) the court rejects a plea agreement; and

(2) the prosecuting attorney or the defendant files a written motion for change of judge within ten (10) days after the plea

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1 agreement is rejected;
 2 the court shall grant the motion for change of judge and transfer the
 3 proceeding to a special judge under the Indiana Rules of Criminal
 4 Procedure. However, there may not be more than one (1) transfer of the
 5 proceeding to a special judge under this subsection.

6 (e) If the court accepts a plea agreement, it shall be bound by its
 7 terms.

8 SECTION 54. IC 35-36-8-3 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) A pretrial hearing
 10 and pretrial conference, if one is necessary, may be held on the
 11 omnibus date or any other date that the court designates prior to the
 12 commencement of trial. The purpose of the pretrial hearing is to:

13 (1) consolidate hearings on pretrial motions and other requests to
 14 the maximum extent practicable;

15 (2) rule on the motions and requests and ascertain whether the
 16 case will be disposed of by guilty plea, **plea of no contest, plea**
 17 **of guilty but mentally ill at the time of the crime**, jury trial, or
 18 bench trial; and

19 (3) make any other orders appropriate under the circumstances to
 20 expedite the proceedings.

21 (b) At the time of the pretrial hearing as provided under this section,
 22 or at any other time after the filing of the indictment or information and
 23 before the commencement of trial, the court, upon motion of any party
 24 or upon its own motion, may order conferences to consider any matters
 25 that will promote a fair and expeditious trial. The purpose of such a
 26 conference shall be to consider any matters related to the disposition of
 27 the proceedings, including the simplification of the issues to be tried
 28 and the possibility of obtaining admissions of fact and of documents
 29 which will avoid unnecessary proof.

30 (c) At the conclusion of the conference the court shall prepare and
 31 file a memorandum of the matters agreed upon. Any admission made
 32 by the defendant or his attorney at the conference may not be used
 33 against the defendant unless the admission is reduced to writing and
 34 signed by the defendant and his attorney.

35 SECTION 55. IC 35-38-1-1 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) After a verdict,
 37 finding, **plea of no contest, plea of guilty but mentally ill at the time**
 38 **of the crime**, or plea of guilty, if a new trial is not granted, the court
 39 shall enter a judgment of conviction.

40 (b) When the court pronounces the sentence, the court shall advise
 41 the person that the person is sentenced for not less than the earliest
 42 release date and for not more than the maximum possible release date.

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SECTION 56. IC 35-41-1-4.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 4.8. "Convicted" or "conviction" means a judgment of conviction in Indiana or another jurisdiction for a crime. The term includes a judgment of conviction after a plea of no contest or nolo contendere that is accepted by the court entering the judgment of conviction.**

SECTION 57. IC 35-41-4-2, AS AMENDED BY P.L.9-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) Except as otherwise provided in this section, a prosecution for an offense is barred unless it is commenced:

(1) within five (5) years after the commission of a Class B, Class C, or Class D felony; or

(2) within two (2) years after the commission of a misdemeanor.

(b) A prosecution for a Class A felony may be commenced at any time.

(c) A prosecution for murder may be commenced:

(1) at any time; and

(2) regardless of the amount of time that passes between:

(A) the date a person allegedly commits the elements of murder; and

(B) the date the alleged victim of the murder dies.

(d) A prosecution for the following offenses is barred unless commenced before the date that the alleged victim of the offense reaches thirty-one (31) years of age:

(1) IC 35-42-4-3(a) (Child molesting).

(2) IC 35-42-4-5 (Vicarious sexual gratification).

(3) IC 35-42-4-6 (Child solicitation).

(4) IC 35-42-4-7 (Child seduction).

(5) IC 35-46-1-3 (Incest).

(e) Notwithstanding subsection (c)(1), a prosecution for child molesting under IC 35-42-4-3(c) or IC 35-42-4-3(d) where a person who is at least sixteen (16) years of age allegedly commits the offense against a child who is not more than two (2) years younger than the older person, is barred unless commenced within five (5) years after the commission of the offense.

(f) A prosecution for forgery of an instrument for payment of money, or for the uttering of a forged instrument, under IC 35-43-5-2, is barred unless it is commenced within five (5) years after the maturity of the instrument.

(g) If a complaint, indictment, or information is dismissed because of an error, defect, insufficiency, or irregularity, a new prosecution may



be commenced within ninety (90) days after the dismissal even if the period of limitation has expired at the time of dismissal, or will expire within ninety (90) days after the dismissal.

(h) The period within which a prosecution must be commenced does not include any period in which:

(1) the accused person is not usually and publicly resident in Indiana or so conceals himself that process cannot be served on him;

(2) the accused person conceals evidence of the offense, and evidence sufficient to charge him with that offense is unknown to the prosecuting authority and could not have been discovered by that authority by exercise of due diligence; or

(3) the accused person is a person elected or appointed to office under statute or constitution, if the offense charged is theft or conversion of public funds or bribery while in public office.

(i) For purposes of tolling the period of limitation only, a prosecution is considered commenced on the earliest of these dates:

(1) The date of filing of an indictment, information, or complaint before a court having jurisdiction.

(2) The date of issuance of a valid arrest warrant.

(3) The date of arrest of the accused person by a law enforcement officer without a warrant, if the officer has authority to make the arrest.

(j) A prosecution is considered timely commenced for any offense to which the defendant enters a plea of guilty, **no contest, or guilty but mentally ill at the time of the crime**, notwithstanding that the period of limitation has expired.

SECTION 58. IC 35-48-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 12. If a person who has no prior conviction of an offense under this article or under a law of another jurisdiction relating to controlled substances pleads guilty, **no contest, or guilty but mentally ill at the time of the crime** to possession of marijuana or hashish as a Class A misdemeanor, the court, without entering a judgment of conviction and with the consent of the person, may defer further proceedings and place him in the custody of the court under such conditions as the court determines. Upon violation of a condition of the custody, the court may enter a judgment of conviction. However, if the person fulfills the conditions of the custody, the court shall dismiss the charges against him. There may be only one (1) dismissal under this section with respect to a person.

SECTION 59. IC 35-50-2-8 IS AMENDED TO READ AS



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1 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. (a) The state may
 2 seek to have a person sentenced as a habitual offender for any felony
 3 by alleging, on a page separate from the rest of the charging instrument,
 4 that the person has accumulated two (2) prior unrelated felony
 5 convictions.

6 (b) After a person has been convicted and sentenced for a felony
 7 committed after sentencing for a prior unrelated felony conviction, the
 8 person has accumulated two (2) prior unrelated felony convictions.
 9 However, a conviction does not count for purposes of this subsection,
 10 if:

11 (1) it has been set aside; or

12 (2) it is one for which the person has been pardoned.

13 (c) If the person was convicted of the felony in a jury trial, the jury
 14 shall reconvene for the sentencing hearing. If the trial was to the court
 15 or the judgment was entered on a guilty plea, **plea of no contest, or a**
 16 **plea of guilty but mentally ill at the time of the crime**, the court
 17 alone shall conduct the sentencing hearing under IC 35-38-1-3.

18 (d) A person is a habitual offender if the jury (if the hearing is by
 19 jury) or the court (if the hearing is to the court alone) finds that the
 20 state has proved beyond a reasonable doubt that the person had
 21 accumulated two (2) prior unrelated felony convictions.

22 (e) The court shall sentence a person found to be a habitual criminal
 23 to an additional fixed term that is not less than the presumptive
 24 sentence for the underlying offense nor more than three (3) times the
 25 presumptive sentence for the underlying offense. However, the
 26 additional sentence may not exceed thirty (30) years.

27 SECTION 60. IC 35-50-2-8.5 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8.5. (a) The state may
 29 seek to have a person sentenced to life imprisonment without parole for
 30 any felony described in section 2(b)(4) of this chapter by alleging, on
 31 a page separate from the rest of the charging instrument, that the person
 32 has accumulated two (2) prior unrelated felony convictions described
 33 in section 2(b)(4) of this chapter.

34 (b) If the person was convicted of the felony in a jury trial, the jury
 35 shall reconvene to hear evidence on the life imprisonment without
 36 parole allegation. If the person was convicted of the felony by trial to
 37 the court without a jury or if the judgment was entered to guilty plea,
 38 **plea of no contest, or plea of guilty but mentally ill at the time of**
 39 **the crime**, the court alone shall hear evidence on the life imprisonment
 40 without parole allegation.

41 (c) A person is subject to life imprisonment without parole if the
 42 jury (in a case tried by a jury) or the court (in a case tried by the court

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or on a judgment entered on a guilty plea) finds that the state has proved beyond a reasonable doubt that the person has accumulated two (2) prior unrelated convictions for offenses described in section 2(b)(4) of this chapter.

(d) The court may sentence a person found to be subject to life imprisonment without parole under this section to life imprisonment without parole.

SECTION 61. IC 35-50-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 9. (a) The state may seek either a death sentence or a sentence of life imprisonment without parole for murder by alleging, on a page separate from the rest of the charging instrument, the existence of at least one (1) of the aggravating circumstances listed in subsection (b). In the sentencing hearing after a person is convicted of murder, the state must prove beyond a reasonable doubt the existence of at least one (1) of the aggravating circumstances alleged. However, the state may not proceed against a defendant under this section if a court determines at a pretrial hearing under IC 35-36-9 that the defendant is a mentally retarded individual.

(b) The aggravating circumstances are as follows:

(1) The defendant committed the murder by intentionally killing the victim while committing or attempting to commit any of the following:

(A) Arson (IC 35-43-1-1).

(B) Burglary (IC 35-43-2-1).

(C) Child molesting (IC 35-42-4-3).

(D) Criminal deviate conduct (IC 35-42-4-2).

(E) Kidnapping (IC 35-42-3-2).

(F) Rape (IC 35-42-4-1).

(G) Robbery (IC 35-42-5-1).

(H) Carjacking (IC 35-42-5-2).

(I) Criminal gang activity (IC 35-45-9-3).

(J) Dealing in cocaine or a narcotic drug (IC 35-48-4-1).

(2) The defendant committed the murder by the unlawful detonation of an explosive with intent to injure person or damage property.

(3) The defendant committed the murder by lying in wait.

(4) The defendant who committed the murder was hired to kill.

(5) The defendant committed the murder by hiring another person to kill.

(6) The victim of the murder was a corrections employee, probation officer, parole officer, community corrections worker, home detention officer, fireman, judge, or law enforcement

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officer, and either:

- (A) the victim was acting in the course of duty; or
- (B) the murder was motivated by an act the victim performed while acting in the course of duty.

(7) The defendant has been convicted of another murder.

(8) The defendant has committed another murder, at any time, regardless of whether the defendant has been convicted of that other murder.

(9) The defendant was:

- (A) under the custody of the department of correction;
- (B) under the custody of a county sheriff;
- (C) on probation after receiving a sentence for the commission of a felony; or
- (D) on parole;

at the time the murder was committed.

(10) The defendant dismembered the victim.

(11) The defendant burned, mutilated, or tortured the victim while the victim was alive.

(12) The victim of the murder was less than twelve (12) years of age.

(13) The victim was a victim of any of the following offenses for which the defendant was convicted:

- (A) Battery as a Class D felony or as a Class C felony under IC 35-42-2-1.
- (B) Kidnapping (IC 35-42-3-2).
- (C) Criminal confinement (IC 35-42-3-3).
- (D) A sex crime under IC 35-42-4.

(14) The victim of the murder was listed by the state or known by the defendant to be a witness against the defendant and the defendant committed the murder with the intent to prevent the person from testifying.

(15) The defendant committed the murder by intentionally discharging a firearm (as defined in IC 35-47-1-5):

- (A) into an inhabited dwelling; or
- (B) from a vehicle.

(16) The victim of the murder was pregnant and the murder resulted in the intentional killing of a fetus that has attained viability (as defined in IC 16-18-2-365).

(c) The mitigating circumstances that may be considered under this section are as follows:

- (1) The defendant has no significant history of prior criminal conduct.

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(2) The defendant was under the influence of extreme mental or emotional disturbance when the murder was committed.

(3) The victim was a participant in or consented to the defendant's conduct.

(4) The defendant was an accomplice in a murder committed by another person, and the defendant's participation was relatively minor.

(5) The defendant acted under the substantial domination of another person.

(6) The defendant's capacity to appreciate the criminality of the defendant's conduct or to conform that conduct to the requirements of law was substantially impaired as a result of mental disease or defect or of intoxication.

(7) The defendant was less than eighteen (18) years of age at the time the murder was committed.

(8) Any other circumstances appropriate for consideration.

(d) If the defendant was convicted of murder in a jury trial, the jury shall reconvene for the sentencing hearing. If the trial was to the court, or the judgment was entered on a plea of guilty, ~~plea~~, **no contest, or, subject to subsection (a), guilty but mentally ill at the time of the crime**, the court alone shall conduct the sentencing hearing. The jury or the court may consider all the evidence introduced at the trial stage of the proceedings, together with new evidence presented at the sentencing hearing. The court shall instruct the jury concerning the statutory penalties for murder and any other offenses for which the defendant was convicted, the potential for consecutive or concurrent sentencing, and the availability of good time credit and clemency. The defendant may present any additional evidence relevant to:

(1) the aggravating circumstances alleged; or

(2) any of the mitigating circumstances listed in subsection (c).

(e) Except as provided by IC 35-36-9, if the hearing is by jury, the jury shall recommend to the court whether the death penalty or life imprisonment without parole, or neither, should be imposed. The jury may recommend:

(1) the death penalty; or

(2) life imprisonment without parole;

only if it makes the findings described in subsection (k). The court shall make the final determination of the sentence, after considering the jury's recommendation, and the sentence shall be based on the same standards that the jury was required to consider. The court is not bound by the jury's recommendation. In making the final determination of the sentence after receiving the jury's recommendation, the court may

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1 receive evidence of the crime's impact on members of the victim's
2 family.

3 (f) If a jury is unable to agree on a sentence recommendation after
4 reasonable deliberations, the court shall discharge the jury and proceed
5 as if the hearing had been to the court alone.

6 (g) If the hearing is to the court alone, except as provided by
7 IC 35-36-9, the court shall:

8 (1) sentence the defendant to death; or

9 (2) impose a term of life imprisonment without parole;
10 only if it makes the findings described in subsection (k).

11 (h) If a court sentences a defendant to death, the court shall order
12 the defendant's execution to be carried out not later than one (1) year
13 and one (1) day after the date the defendant was convicted. The
14 supreme court has exclusive jurisdiction to stay the execution of a
15 death sentence. If the supreme court stays the execution of a death
16 sentence, the supreme court shall order a new date for the defendant's
17 execution.

18 (i) If a person sentenced to death by a court files a petition for
19 post-conviction relief, the court, not later than ninety (90) days after the
20 date the petition is filed, shall set a date to hold a hearing to consider
21 the petition. If a court does not, within the ninety (90) day period, set
22 the date to hold the hearing to consider the petition, the court's failure
23 to set the hearing date is not a basis for additional post-conviction
24 relief. The attorney general shall answer the petition for post-conviction
25 relief on behalf of the state. At the request of the attorney general, a
26 prosecuting attorney shall assist the attorney general. The court shall
27 enter written findings of fact and conclusions of law concerning the
28 petition not later than ninety (90) days after the date the hearing
29 concludes. However, if the court determines that the petition is without
30 merit, the court may dismiss the petition within ninety (90) days
31 without conducting a hearing under this subsection.

32 (j) A death sentence is subject to automatic review by the supreme
33 court. The review, which shall be heard under rules adopted by the
34 supreme court, shall be given priority over all other cases. The supreme
35 court's review must take into consideration all claims that the:

36 (1) conviction or sentence was in violation of the:

37 (A) Constitution of the State of Indiana; or

38 (B) Constitution of the United States;

39 (2) sentencing court was without jurisdiction to impose a
40 sentence; and

41 (3) sentence:

42 (A) exceeds the maximum sentence authorized by law; or

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1 (B) is otherwise erroneous.
 2 If the supreme court cannot complete its review by the date set by the
 3 sentencing court for the defendant's execution under subsection (h), the
 4 supreme court shall stay the execution of the death sentence and set a
 5 new date to carry out the defendant's execution.

6 (k) Before a sentence may be imposed under this section, the jury,
 7 in a proceeding under subsection (e), or the court, in a proceeding
 8 under subsection (g), must find that:

9 (1) the state has proved beyond a reasonable doubt that at least
 10 one (1) of the aggravating circumstances listed in subsection (b)
 11 exists; and

12 (2) any mitigating circumstances that exist are outweighed by the
 13 aggravating circumstance or circumstances.

14 SECTION 62. IC 35-50-2-10 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10. (a) As used in this
 16 section:

17 (1) "Drug" means a drug or a controlled substance (as defined in
 18 IC 35-48-1).

19 (2) "Substance offense" means a Class A misdemeanor or a felony
 20 in which the possession, use, abuse, delivery, transportation, or
 21 manufacture of alcohol or drugs is a material element of the
 22 crime. The term includes an offense under IC 9-30-5 and an
 23 offense under IC 9-11-2 (before its repeal July 1, 1991).

24 (b) The state may seek to have a person sentenced as a habitual
 25 substance offender for any substance offense by alleging, on a page
 26 separate from the rest of the charging instrument, that the person has
 27 accumulated two (2) prior unrelated substance offense convictions.

28 (c) After a person has been convicted and sentenced for a substance
 29 offense committed after sentencing for a prior unrelated substance
 30 offense conviction, the person has accumulated two (2) prior unrelated
 31 substance offense convictions. However, a conviction does not count
 32 for purposes of this subsection if:

33 (1) it has been set aside; or

34 (2) it is a conviction for which the person has been pardoned.

35 (d) If the person was convicted of the substance offense in a jury
 36 trial, the jury shall reconvene for the sentencing hearing. If the trial was
 37 to the court, or the judgment was entered on a guilty plea, **plea of no**
 38 **contest, or plea of guilty but mentally ill at the time of the offense,**
 39 the court alone shall conduct the sentencing hearing, under
 40 IC 35-38-1-3.

41 (e) A person is a habitual substance offender if the jury (if the
 42 hearing is by jury) or the court (if the hearing is to the court alone)

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finds that the state has proved beyond a reasonable doubt that the person had accumulated two (2) prior unrelated substance offense convictions.

(f) The court shall sentence a person found to be a habitual substance offender to an additional fixed term of at least three (3) years but not more than eight (8) years imprisonment, to be added to the term of imprisonment imposed under ~~IC 35-50-2~~ **this chapter** or IC 35-50-3. If the court finds that three (3) years or more have elapsed since the date the person was discharged from probation, imprisonment, or parole (whichever is later) for the last prior unrelated substance offense conviction and the date the person committed the substance offense for which the person is being sentenced as a habitual substance offender, then the court may reduce the additional fixed term. However, the court may not reduce the additional fixed term to less than one (1) year.

(g) If a reduction of the additional year fixed term is authorized under subsection (f), the court may also consider the aggravating or mitigating circumstances in IC 35-38-1-7.1 to:

- (1) decide the issue of granting a reduction; or
- (2) determine the number of years, if any, to be subtracted, under subsection (f).

SECTION 63. IC 36-1-9.5-48 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 48. (a) An entity may revoke a certificate of qualification only if the entity determines that the contractor or subcontractor has done at least one (1) of the following:

- (1) Fails to timely pay or satisfactorily settle any bills due for labor and material on former or existing contracts.
- (2) Violates:
 - (A) a state or federal statute; or
 - (B) a rule or regulation of a state or federal department, board, bureau, agency, or commission.
- (3) Defaults on a contract.
- (4) Fails to enter into a contract with the entity.
- (5) Falsifies any document required by the entity, the state board of accounts, or any other agency.
- (6) Is convicted of a bidding crime in any jurisdiction.
- (7) Enters a plea of guilty, **no contest or its equivalent**, or ~~note~~ **contendere guilty but mentally ill at the time of the crime** to a bidding crime in any state.
- (8) Does any of the following:
 - (A) Makes a public admission concerning a bidding crime in any state.



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(B) Makes a presentation as an unindicted co-conspirator in a bidding crime in any state.

(C) Gives testimony that is protected by a grant of immunity in a trial for a bidding crime in any jurisdiction.

(9) Fails to perform any part of an existing or previous contract.

(10) Fails to submit in a timely manner information, documented explanations, or evidence required in the contract documents or proposal.

(11) Has been debarred by a federal agency.

(12) Failed to comply with any proposal requirements established by the entity concerning disadvantaged business enterprise goals or women business enterprise goals.

(b) An entity shall provide notification of a pending action for revocation in writing, setting forth the grounds for the proposed certificate revocation. The revocation becomes effective on the date determined by the entity.

(c) A period of disqualification under this chapter may not exceed two (2) years.

SECTION 64. [EFFECTIVE JULY 1, 2001] **(a) Notwithstanding this act:**

(1) an information, a complaint, a summons, or another record or document prepared or printed before July 1, 2001; or

(2) a statement by a judge or other official made before July 1, 2001;

that refers to the phrase "nolo contendere" shall be treated after June 30, 2001, as a reference to the phrase "no contest".

(b) A traffic violation form printed before July 1, 2001, that includes a reference to the phrase "nolo contendere" or fails to contain a reference to a plea of guilty but mentally ill at the time of the crime may be used after June 30, 2001, to the same extent as if the form referred to the phrase "no contest" or contained a reference to a plea of guilty but mentally ill at the time of the crime. A plea or finding of guilty but mentally ill at the time of the crime may be recorded on the preprinted form by interlining the plea or finding on the form.

(c) The plea of no contest to:

(1) a nonmoving traffic violation that is punishable as an infraction;

(2) a crime that is punishable as a felony or misdemeanor; or

(3) a delinquent act;

applies only to violations or crimes committed after June 30, 2001.



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